

CRP Nos.4208 & 4210 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05-02-2025**

CORAM

**THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA**

**CRP Nos.4208 and 4210 of 2022**

**and CMP Nos.22061 and 22066 of 2022**

S.Dhanabakkiam, W/o.Late.S.Subramaniam,  
No.130A, Vinayagar Kovil Street, Thirumalai Nagar 1st Street,  
No.15, Velampalayam Majara, Gandhi Nagar Post, Tirupur - 641 603.  
..Petitioner in both CRPs.

Vs

1.Shriram Transport Finance Co Ltd  
Rep. by authorized Representative Senthilkumar, Registered  
Office at Mookambika Complex, 3rd Floor, No.4, Lady Desika  
Road, Mylapore, Chennai - 600 004. Having at present Branch  
office at No.17, Sakthi Nagar, ICICI Bank Upstairs, Near  
Poyampalayam Pirivu PN Road, Tiruppur - 641 602.

2.Dhanabakkiam, W/o. S.Subramaniam .... Respondents 1 and 2 in both CRPs.

3.Ragupathi, S/o Palanisami ... 3rd Respondent in CRP No.4208/2022

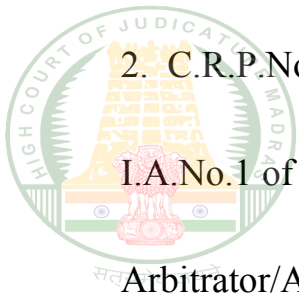
4.Manian, S/o Ramasamy ... 3rd Respondent in CRP No.4210/2022

For Petitioner(s) : Mr.Ma.P.Thangavel

For Respondent(s): Ms.V.Pushpa Chandrakala for R1  
Mr.D.Saravanan for R2 & 3

### **ORDER**

C.R.P.No.4208 of 2022 has been filed seeking to set aside the order passed in I.A.No.1  
of 2020 in Arbitral proceedings No.2023 of 2019 dated 28.02.2020 by the Sole  
Arbitrator/Arbitral Tribunal, Coimbatore.

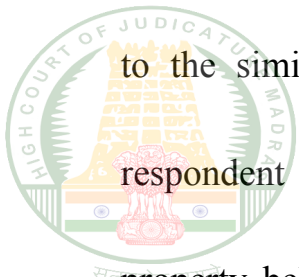


2. C.R.P.No.4210 of 2022 has been filed seeking to set aside the order passed

I.A.No.1 of 2020 in Arbitral proceedings No.2022 of 2019 dated 28.02.2020 by the Sole Arbitrator/Arbitral Tribunal, Coimbatore.

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3.It is the case of the petitioner that the second respondent herein viz., Dhanabakkiyam, W/o Subramaniam had entered into a Loan cum Hypothecation Agreements on 15.03.2016 and 11.03.2016 with the first respondent viz.,Shriram Transport Finance Company Limited for the purchase vehicles bearing registration Nos.TN41 AH 1917 (Bharath Benz) and TN69 AK 4848(Ashok Leyland) and the third respondent in C.R.P.No.4208 of 2022 viz.,Ragupathy and the third respondent in CRP No.4210/2022 viz.,Manian stood as guarantors for the said loans. Since the second respondent failed to pay the due amount inspite of repeated demands, the first respondent herein referred the claims to the Arbitration. The Arbitral Tribunal, by Awards dated 28.02.2020 in I.A.No.1 of 2020 in Arbitration Proceedings No.2023/2019 and I.A.No.1 of 2020 in Arbitration Proceedings No.2022/2019, had observed that the property sought to be attached is situated within the jurisdiction of the Principal District Court, Tiruppur and thereby, the sole Arbitrator had requested the Principal District Court, Tiruppur, to implement the order of attachment as per provision of Section 17 of the Arbitration & Conciliation Act, 1996 read with Section 136 CPC and the Principal District Court, due



to the similarity of the names of the petitioner and her husband and the respondent and her husband, had on mistaken identity ordered for attachment of the property belonging to the petitioner. Challenging the same, the present civil revision petitions have been filed.

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4.The learned counsel for the petitioner would submit that the second respondent in both the civil revision petitions viz.,Dhanabkkiyam, W/o Subramaniam, residing at Door No.15B, 53B, Murugai Thottam, EB Colony, Samundipuram, Tiruppur, is the borrower of the loan from the first respondent for purchase of vehicles and she has not repaid the loan amount, however, on mistaken identity and similarity of the names of the petitioner and her husband and the second respondent and her husband, the petitioner's property has been wrongly attached by the sole Arbitrator by his proceedings dated 28.02.2020 in both cases. He would further submit that the petitioner is neither a borrower nor the mortgagor of the property to the first respondent-Finance Company and thereby, he would seek to set aside the order passed by the Arbitrator.

5.Learned counsel appearing for the first respondent would admit that the petitioner is neither the borrower nor mortgagor of the suit property and on account of the similarity of the names of the petitioner and her husband and the second respondent and her husband, the petitioner's property has been mistakenly attached and the orders dated



28.02.2020 may be set aside and the first respondent may be permitted to proceed against the properties belonging to the other respondents in accordance with law.

6. Heard the learned counsel for the petitioner, learned counsel for the first respondent and the learned counsel for the Respondents 2 and 3 and also perused the materials available on record.

7. It is clear from the above facts that the petitioner is no way connected with the claim and the second respondent herein is the borrower of the loan from the first respondent for purchase of vehicles and she has not repaid the said loan amount. Thereby, the first respondent had approached the Arbitral Tribunal and the sole Arbitrator, by his proceedings in I.A. No.1 of 2020 in Arbitration proceedings No.2023/2019 and I.A.No.1 of 2020 in Arbitration Proceedings No.2022/2019 dated 28.02.2020, had observed that the property sought to be attached is situated within the jurisdiction of the Principal District Court, Tiruppur and thereby, the sole Arbitrator had requested the Principal District Court, Tiruppur, to implement the order of attachment as per provision of Section 17 of the Arbitration & Conciliation Act, 1996 read with Section 136 CPC. The property attached belongs to the petitioner, who is neither the borrower nor the mortgagor of the property. Since the petitioner's name and her husband's name are similar to that of the second respondent herein and her husband, the property of the



petitioner was wrongly attached. The learned counsel for the first respondent

had accepted the mistake committed and sought to set aside the order passed by the sole

Arbitrator with permission to proceed as against the actual borrower and sureties in

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accordance with law. The said submission is recorded.

8.In view of the above, the Awards passed by the Arbitrator dated 28.02.2020 in

I.A.No.1 of 2020 in Arbitration Proceedings No.2023/2019 and I.A.No.1 of 2020 in

Arbitration Proceedings No.2022/2019 stand set aside and both the civil revision

petitions are allowed. No costs. Consequently, connected civil miscellaneous petitions

are closed.

**05-02-2025**

raa

To

Principal District Court, Tiruppur.



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**A.D.JAGADISH CHANDIRA.,J.**

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05.02.2025