



CRP NPD.No.1992 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 03.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD No.1992 of 2025 & CMP.No.11457 of 2025

M.Ravi

. . . Petitioner

Versus

1. Margadarsi Chits Private Limited,
Rep. by its Foreman M.N.Prasad Babu,
III Floor, Kaashyap Enclave, Door No.13-A,
Velachery Main Road, Velachery,
Chennai – 600 042.

2. S.Vijayakumar
3. P.S.Navaneethan
4. S.Kathirvel
5. K.Vinoth
6. J.Umapathi
7. T.Selvaraj
8. N.Desika

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to allow this Civil Revision Petition by setting aside the Order dated 09.04.2025 passed in E.A.No.1 of 2025 in E.P.No.47 of 2025 in ARC.No.409 of 2021 pending on the file of the XXV Assistant City Civil Court, Chennai.



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For petitioner : Mr.N.Premkumar

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ORDER

Challenge has been made against the Order passed by the execution Court dismissing the application filed by the petitioner under section 47 of Code of Civil Procedure.

2. The grievance of the revision petitioner is that he only stood as a guarantor. Whereas, the award has been passed not only against him but also against the principal borrower and the others. It is his contention that the properties of others had already been attached and those properties alone are sufficient to satisfy the award amount. The award has been passed only for a sum of Rs.32 lakhs. Whereas, the property attached is worth more than Rs.one crore. Therefore, the trial Court ought not have dismissed the application filed by the petitioner under section 47 of Code of Civil Procedure.



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3. I have perused entire materials. The very filing of the application under section 47 of Code of Civil Procedure questioning the award itself is not maintainable in view of the judgment passed by this Court **Sathish Karthikeyan V Vs. Axis Bank Limited represented by its Manager in C.R.P.(NPD) No.3808 of 2023, dated 13.11.2024**, wherein this Court has held that the grounds raised in the application under Section 47 can be raised under Section 34 of the Arbitration and Conciliation Act while the award is being challenged. Whereas in this case, without challenging the award, as a matter of right, an application under Section 47 of the Code of Civil Procedure is not maintainable.

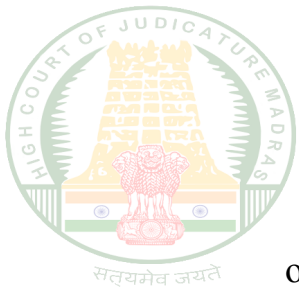
4. Further, the Apex Court has clearly held in **Paramjeet Singh Patheja v. ICDS Ltd** reported in **(2006) 13 SCC 322** that the section 36 of the Arbitration and Conciliation Act is for the limited purpose for facilitating the execution of the arbitral award and the same cannot be stretched to equate an arbitral award with a decree. The Apex Court has categorically held in the



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above judgment that the arbitral award is not a decree and has held as follows
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“Therefore, the words employed in Section 34 “recourse to a court against an arbitral award may be made only by an application for setting aside the award” make it clear that an award has to be set aside only in the manner known to law as provided under Section 34 of the Arbitration and Conciliation Act, 1996. As long as an aggrieved party to the award did not challenge the award passed against him in the manner known to law, the arbitral award shall be final and binding on the parties and the persons claiming under them respectively. When a party to the award had not chosen to challenge the award within the time prescribed, such award shall be enforced in accordance with the provisions of the Code of Civil Procedure in the same manner as if it was a decree passed by the Civil Court. Therefore, as no objection was raised and the respondent has waived the objection and also did not choose to file any application under Section 34



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of the Arbitration and Conciliation Act, 1996 seeking to set aside the award, such award has to be executed. Therefore, the executing court cannot go into the validity of the arbitral award. The issue of ineligibility of the arbitrator cannot be raised during the pendency of the execution proceedings.”

5. Further, the contention of the learned counsel of the petitioner is that the property worth about Rs.one crore has already been attached. Therefore, attachment of the property of the petitioner is not necessary. It is relevant to note that to satisfy the decree, a portion of the property which satisfies the decree amount alone has to be sold. It is has to be taken note by the Executing Court while bringing the property for sale and strictly follow the provision under Order XXI Rule 64 of Code of Civil Procedure. Hence, I do not find any merits in this revision.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The XXV Assistant Judge,
City Civil Court, Chennai.



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N. SATHISH KUMAR, J.

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