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A.No. 1744 of 2025
in
EP Sr.No.86469 of 2023

MASTER
15.09.2025

Order

1. This application has been filed by the applicant/deGREE holder seeking permission to prefer simultaneous Execution Petition.

2. The applicant/deGREE holder submitted that the applicant is the award holder of the arbitral proceedings arising out Arbitration O.P No.49 of 2014 by an award dated 04.01.2017. The respondents have not paid the award amount of Rs.12,50,00,000/-along with interest at 8% per annum from 14.12.2010 till date of realisation. The Applicant has filed EP No.149 of 2019 before this Court against all the Judgment debtors for attachment and sale of immovable property and pending before this Court, wherein a warrant of attachment dated 25.08.2021 in respect of a property belonging to 1st respondent has been issued. The bailiff has filed a valuation report for the attached property and has assessed its value to be Rs.1,87,2,000/- and the said property is yet to be sold in court auction. However, the value of the attached property is not sufficient to entirely satisfy the arbitral award and the decree holder is still entitled to a sum of Rs.33,29,63,931.51/- and the attachment has only yielded a means for part satisfaction of the arbitral award. Hence the applicant has filed this application.



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3. Per contra, the respondents have filed their counter stating that the Judgment debtors admit that they have executed an agreement in favour of the decree holders and received 15 crores, but the fact is that an amount of Rs.50,00,000/- has been transferred immediately to the personal account of the decree holder and further a majority of the remaining amount has been disbursed to the litigants and spent on clearing litigation with the permission and due consent of the decree holder. The Judgment debtors were merely an agreement holder who dealt with the property in good faith and in no way related to the fabrication of will or any further proceedings pursuant to the will and thus they were made as scape goats for the fault of others. The present application and the Execution Petition are filed only for unjust enrichment by the decree holder and moreover the Execution Petition was filed in the year 2023 without obtaining permission of the Court at the first instance. Therefore, the present application is to be dismissed.

4. Heard both side counsels and perused the available materials on record. The present application is filed by the decree holder seeking permission to prefer simultaneous Execution Petition. The case of the applicant is that he filed EP 49 of 2019 to execute the award dated 04.01.2017 in O.P.No.49 of 2014 wherein a warrant of attachment in respect of a property belonging to the 1st respondent has been issued by this court and the value of the attached property is not sufficient to satisfy the entire award amount and hence he has filed the EP Sr.No.86469 of 2023 to arrest and detain



Mr.B.Sathyannarayana/JD5 and Mr.B.Kumaravel Pandian/JD6 in prison until satisfaction of the decree. Order XXI, Rule 21 of the Code of Civil Procedure deals with simultaneous execution which reads as follows:

Sec.21 Simultaneous execution: The court in its discretion refuse execution at the same time against the property and judgment debtor.

5. The Madras High Court (Original side) Rules Order 14, Rule 10 (XXXIX) deals with applications for concurrent and simultaneous execution of decree. The object of this provision is to avoid harsh consequences unless really justified. Here is a case where the decree holder has categorically stated in the supporting affidavit filed along with this application that he has filed E.P.No.149/2019 which is pending before this Court and the property attached in the said execution petition is not sufficient enough to satisfy the entire arbitral award amount and further the learned counsel for the petitioner also submitted that the respondent has not disclosed his other immovable assets and hence they are filed the present E.P for arrest and detention of the JD5 & JD6 in prison until satisfaction of the decree. The fact that the property attached in E.P.No.149/2019 is not sufficient enough to satisfy the decree is not specifically denied by the respondent. The other contentions raised by the respondent in the counter affidavit are factual circumstances which has already been decided and an arbitral award was passed on 04.01.2017 as against which O.P.No.241 of 2018 was preferred by the Judgment debtors 4 to 6 before the Hon'ble High Court to set aside the arbitral award and the same was dismissed on 21.11.2019 as against which no appeal was preferred. Therefore, this



court as executing court cannot go beyond decree and that too in this application which filed by the decree holder to prefer simultaneous execution petition.

6. In the above said circumstances this court is unable to accept the contention of the learned counsel for the respondent that a decree holder cannot file an E.P for arrest of the Judgment Debtor after he had filed an E.P for proceeding against his immovable properties, because as per Order 21 Rule 30 of C.P.C, a decree for payment of money can be executed by detention in civil prison of the Judgment Debtor or by attachment and sale of his property or by both. So, it is very clear that the decree holder can proceed both against the person and properties of a judgment debtor for recovery of the money due under a decree for payment of money. But as per Order 21 Rule 21 of C.P.C court has discretion to return simultaneous execution. In view of Order 21 Rule 30 of C.P.C r/w Order 21, Rule 21 of C.P.C it is for the decree holder to choose the mode of execution and it is not for the court on the judgment debtor to say what mode of execution the decree holder should adopt to realise the money due to him under a money decree in his favour.

In view of the foregoing discussion, this court is satisfied with the reasons stated in the accompanying affidavit filed by the applicant and therefore is inclined to allow this application.

Accordingly, this application is allowed. No cost.

MASTER