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C.R.P.No.2878 of 2025

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 26.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P.No.2878 of 2025

1. S.Saravanan
2. R.Robin
3. N.Kalidoss

... Petitioners

Vs

1. Jayapriya Chit Funds Private Limited,
Rep.by its Agent,
Thiyagarajan.

2. K.Sachinrajkumar
3. S.Venkateswaran
4. G.Ravindran
5. The Divisional Railway Manager,
O/o.Divisional Railway,
Southern Railway, Trichy.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the docket order dated 26.02.2025 passed in E.P.No.50 of 2022 in A.R.C.No.3 of 2019 on the file of the Principal District Court, Thiruvavarur.

For Petitioners : Mr.C.Prakasam



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For Respondents : Mr.V.Rajesh Babu for R1
R2 – Not ready in notice
No appearance for R3 to R5

ORDER

This Civil Revision Petition has been preferred challenging the docket order dated 26.02.2025 passed in E.P.No.50 of 2022 in A.R.C.No.3 of 2019 on the file of the Principal District Court, Thiruvarur.

2. Heard the learned counsel for the petitioners and the learned counsel for the first respondent and perused the materials available on record.

3. There is no representation for respondents 3 to 5.

4. The first respondent herein/decreed holder filed arbitration case in A.R.C.No.3 of 2019 before the Registrar of Chits against the petitioners 1 to 3 and respondents 2 to 4 herein and an Award has been passed on 24.05.2019. As the Award amount has not been paid, the first



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respondent filed Execution Petition in E.P.No.50 of 2022 against the petitioners and respondents 2 to 4 herein, including 5th respondent-Divisional Railway Manager as a party respondent/garnishee, seeking for attachment of their salary. The petitioners and respondents 3 and 4 herein are the Railway employees, therefore, the Executing Court invoking Section 60 of C.P.C. passed the impugned order attaching the salary of petitioners and respondents 3 and 4 herein. Challenging the said attachment of salary, the petitioners herein have filed the present revision petition.

5. It is the contention of the learned counsel for the petitioners that the second respondent herein is the principal borrower, who had received the chit amount from the first respondent-Chit fund Company. The petitioners herein are only guarantors/sureties of the second respondent herein. The Execution Court, without considering the means of the second respondent/principal borrower, who has to realize the payment of the decretal amount, has attached the salaries of the petitioners and respondents 3 and 4 herein, instead of attaching the



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properties of the second respondent/principal borrower.

6. The main contention of the learned counsel for the petitioners is that though the second respondent has sufficient means and without attaching the property of the second respondent, erroneously directed the attachment of 1/3rd salary of the petitioners for a period of 24 months.

7. It is to be noted that the learned Arbitrator passed an Award on 24.05.2019, directing the petitioners and respondents 2 to 4 to pay a sum of Rs.13,29,677/-. The learned Arbitrator also directed to pay the interest at 24% per annum till the recovery of principal amount of Rs.9,81,999/-. As the principal borrower failed to pay the said sum, the first respondent filed the Execution Petition in E.P.No.50 of 2022 and the learned Judge, *vide* order dated 15.11.2022 exonerated the second respondent/principal borrower and attached the salary of petitioners 1 to 3, and respondents 3 and 4, who are the guarantors. While passing the impugned order, the Execution Court by invoking Section 60 C.P.C. attached 1/3rd salary of the petitioners for 24 months only. It is to be noted that as against the

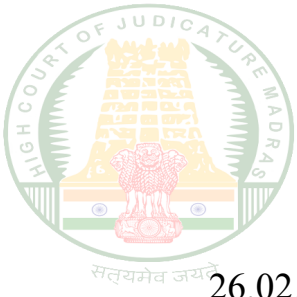


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Arbitral Award, neither the petitioners nor the second respondent/principal borrower and the other guarantors have filed any appeal.

8. It is settled principles of law when the principal borrower defaulted in making payment to the lenders, the guarantors are liable to make the payment. It is to be noted that in the present case, the principal borrower was already exonerated. While that being so, the liability shifts from the second respondent/principal borrower to the petitioners, who are the guarantors. Though the petitioners have stated that the principal borrower had sufficient means and the records would reveal that during the execution proceedings one of the petitioners filed counter affidavit and contended that the principal borrower had sufficient means, but the petitioners have not substantiated the said contention before the Court below in the manner known to law by way of producing any oral and documentary evidence. It is to be further noted that the arbitral Award passed in the year 2019, the decree holder could not enjoy the fruits of the decree till date. Hence, the Execution Court by impugned order dated



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26.02.2025 attached the salary of the guarantors for 24 months, as the second respondent/principal borrower was exonerated from the execution proceedings, the petitioners who are the guarantors/sureties are jointly and severally liable to pay the decretal amount and they can have a right to recover the said amount from the principal borrower.

9. Considering the facts and circumstances, this Court does not find any perversity in the impugned order dated 26.02.2025 passed by the Principal District Judge, Tiruvarur and there is no merit in the revision and the same is liable to be dismissed.

10. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. However, the petitioners/guarantors are at liberty to recover the decretal amount from the second respondent/principal borrower, after realizing the payment to the decree holder. The first respondent is permitted to withdraw the said amount. As



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the attachment of salary is only for a period of 24 months to meet out the decretal amount, thereafter attachment of salary may be ceased.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

1. The Principal District Judge,
Thiruvavarur.
2. The Divisional Railway Manager,
O/o. Divisional Railway,
Southern Railway, Trichy.
3. The Section Officer,
V.R.Section,
High Court, Madras.



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P.VELMURUGAN, J

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