



C.R.P.No.4640of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2025

CORAM

The Hon'ble Mr.Justice N.Sathish Kumar

C.R.P.(NPD) No.4640 of 2024

and

C.M.P.No.25913 of 2024

1. Sivakumar
2. Bagyalakshmi

... Revision Petitioners

Vs.

M/s. Sriram Transport Finance Company Ltd.,
rep. by its Authorized representative
Power Agent, Thiru J.Sankar Pandi.

... Respondent

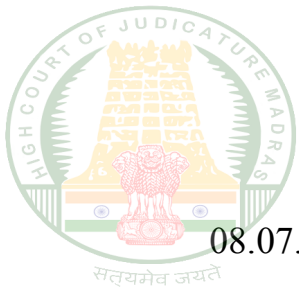
Prayer:-

Civil Revision Petition filed under Section 115 of CPC against the fair and final order passed in E.P.No.85 of 202 in A.R.P.No.114 of 2019 on the file of the I Additional District and Sessions Judge, Tiruppur, dated 08.07.2024.

For Revision Petitioners : Mr.K.Sudhakar
For Respondent : No appearance

ORDER

This Revision Petition challenges the order passed by the learned I Additional District and Sessions Judge, Tiruppur (hereinafter, referred to as 'the Executing Court') in E.P.No.85 of 202 in A.R.P.No.114 of 2019 dated



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08.07.2024, whereby, two of the immovable properties belonging to the

revision petitioners were brought for sale.

2. The brief facts, which led to the filing of this Revision Petition are as follows:-

i) The respondent herein, viz., the claimant, is a Public Limited Company, carrying on the business of providing financial facilities. The revision petitioners availed a loan from the claimant-Finance Company for a sum of Rs.50,00,000/- and entered into a loan agreement dated 26.10.2017. The revision petitioners failed to repay the loan and committed default. In terms of the arbitral clause contained in the Loan Agreement, the respondent/claimant referred the dispute before the learned Arbitrator and an award dated 10.01.2020 has been passed, directing the revision petitioners/respondents to pay a sum of Rs.51,46,069/- with interest at 18% p.a. from 05.09.2018 till payment. The revision petitioners failed to pay the award amount, hence, the claimant/respondent filed an Interlocutory Application in I.A.No.1 of 2019, seeking for attachment of the schedule mentioned properties or to give sufficient security towards settlement of the award amount. The learned Arbitrator, vide order dated 23.09.2019, has



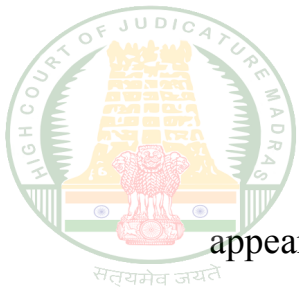
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ordered for attachment of the schedule mentioned properties. The award holder, on the basis of the said order, filed an Execution Petition in E.P.No.85 of 2022, for recovery of a sum of Rs.87,75,105/- and the said Execution Petition has been allowed, whereby, two of the immovable properties have been brought for sale. Aggrieved by the same, the present Revision Petition is filed by the award debtors.

3. The learned counsel appearing for the revision petitioners would submit that the respondent/award holder has filed Execution Petition for recovery of Rs.87,75,105/-, and in order to realise the award amount, two immovable properties were brought for sale. According to the learned counsel, even the first item of property would be sold for more than 2 crores, hence, the revision petitioners took objection for bringing two items of the immovable properties for sale and sought to release one of the items of property from attachment, however, the Executing Court has negated the said prayer, which resulted in filing of this Revision Petition.

4. Heard the learned counsel appearing for the revision petitioners and perused the materials available on record. Despite notice has been served on the respondent, their name are printed in the causelist, none



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appeared on behalf of the respondent.

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5. As far as execution is concerned, particularly, while bringing the property for sale of the immovable properties, the Executing Court is expected to act in accordance with the procedure contemplated under Order XX1 Rule 64 CPC, as the said provision makes it clear that the Court has to first decide whether it is necessary to bring the entire attached property to sale or certain portions alone to satisfy the decree; that if the amount to be realised is very small and the value of the property is more, and the properties that are attached are also many, the Executing Court must endeavour to bring only selective item of the property for sale to realise the entire award amount.

6. It is no doubt true that the award passed by the Arbitral Tribunal is for a sum of Rs.51,46,069 with interest at 18% p.a. from 05.09.2018 to 03.08.2022, which comes around Rs.87,75,105/-, and towards recovery of said amount, sale of one item of immovable property would be suffice, as, according to the revision petitioners, one item of property is worth about Rs.2 crore. However, in the present case, the Executing Court has failed to



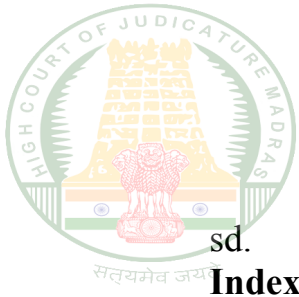
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do the aforesaid exercise and has brought two items of the immovable properties for sale, which necessitated the revision petitioner to approach this Court seeking for setting aside the impugned order and to release one item of the immovable properties from sale.

7. Thus, taking into consideration of the nature of the amount that was sought to be realised, viz., the loan amount, the area, where, the property is situated, i.e. Tiruppur, this Court is of the view that the Executing Court should bring the one item of immovable properties for sale and fix the upset price for such item alone for sale, i.e. after taking note of the various considerations, like market value, guideline value, etc., and proceed further. Only in the event of first item of property is not sufficient to realise the entire award amount, the Executing Court may proceed with the sale of second item of properties.

8. With the above direction, the Civil Revision Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index :yes/no

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To

The I Additional District and Sessions Judge, Tiruppur.

N.Sathish Kumar, J.

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