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C.R.P.[NPD].No.4795 of 2024
and C.M.P.No.26852 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2025

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.4795 of 2024
and C.M.P.No.26852 of 2024

1.Mohideen
2.Fathima

.. Petitioners

Vs.

M/s.Shriram Transport Finance Company
Co-operation Limited,
Rep. by its Authorised representative,
Mr.T.Vijayakumar,
Branch Office,
No.10/5, Kundrathur Main Road,
Moondramkattalai,
(Opp. to Bus Stand),
Kovur, Chennai – 600 128.

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, pleaded to set aside the docket order passed in E.P.No.217 of 2022 dated 23.10.2024 on the file of the Principal District Court, Kancheepuram.

For Petitioner : Mr.S.P.Sudalaiyandi
For Respondent : Mrs.V.Pushpa



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ORDER

This revision petition has been filed seeking to set aside the docket order passed in E.P.No.217 of 2022 dated 23.10.2024 on the file of the Principal District Court, Kancheepuram.

2.The execution petition in E.P.No.217 of 2022 has been filed by the respondent to enforce the arbitral award dated 25.01.2020, wherein the trial Court passed an order of arrest against the petitioner on the ground that no counter has been filed by the petitioner herein.

3.According to the learned counsel for the petitioner, the Execution Court cannot pass an order of arrest merely on the ground that no counter has been filed by the judgment debtor, without following the provision contemplated under Order 21 Rule 40 CPC and hence, he prays to set aside the impugned order.

4.Heard the learned counsel appearing for the petitioner as well as the



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respondent and perused the materials available on record.

5.Considering the submissions made by the petitioner, the impugned order is set aside and the matter is remanded back to the Executing Court and the petitioner is also permitted to file a counter and thereafter, after giving opportunity to the parties, the Executing Court shall proceed further in the manner known to law and pass orders within a period of three months from the date of receipt of a copy of this order.

6.In the result, this Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

29.01.2025

rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Principal District Court, Kancheepuram.

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