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C.R.P.No.3614 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23..06..2025

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3614 of 2024

and

C.M.P.No.19641 of 2024

M/s.Shriram Chits Tamil Nadu Private Limited,
Rep. by its Law Officer,
Mr.Sivaraja,
No.13, Kamarajar Salai,
2nd Floor, Tambaram, Chennai 600 045.

.... Petitioner

-Versus-

1.Mrs.Durga
2.Mr.T.Senthil
3.Mr.Ramesh Kumar
4.Mr.N.Thiagarajan

..... Respondents

Petition filed under Section 115 of CPC praying to set aside the fair and decretal order dated 09.08.2023 passed by the learned XXVIII Assistant Judge, City Civil Court, Chennai, in E.P.No.956 of 2022.

For Petitioner : *Mr.R.Abdul Mubeen*

For Respondent : *No Appearance for RR1 to 4*



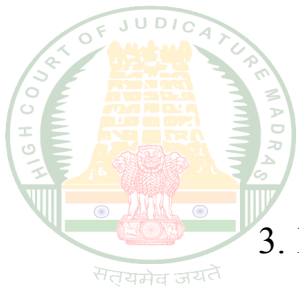
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ORDER

This Civil Revision Petition is filed challenging the order dated 09.08.2023 passed by the learned XXVIII Assistant Judge, City Civil Court, Chennai (Executing Court), in E.P. No.956 of 2024, whereby the execution petition filed by the revision petitioner under Order XXI Rule 48 of the Code of Civil Procedure, seeking attachment of the salaries of respondents 2 to 4 / Judgment-Debtors 2 to 4 for realization of the decree amount, was dismissed on the ground that both the Judgment-Debtors 2 to 4 and the Salary Disbursing Officer are situated outside the jurisdiction of the Executing Court, and therefore, the court lacks territorial jurisdiction to entertain the execution petition.

2. In an arbitration proceeding before the Arbitrator for North and South Chennai, Chit Fund Cases Court, Chennai, an award was passed on 10.08.2021 in A.R.C. No.501 of 2019. Pursuant to the application for execution by the respondent, the Arbitrator of Chit Fund Cases issued a certificate of non-satisfaction of the award amount, along with a copy of the award, for execution, specifying the court having jurisdiction to execute the award.



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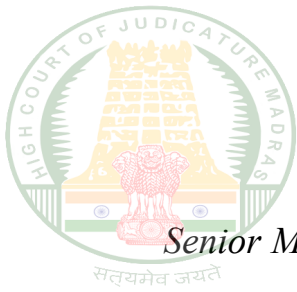
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3. In pursuance thereof, the revision petitioner filed an execution petition in E.P. No.956 of 2022 on the file of the learned XXIII Assistant Judge, City Civil Court, Chennai. However, the execution petition was dismissed on the ground that neither Judgment-Debtors 2 to 4 nor the garnishee falls within the territorial jurisdiction of the executing court. It is this order that is under challenge in the present revision petition.

4. Despite service of notice on the respondents, none appeared on their behalf, nor did they appear in person. Hence, the matter was heard in their absence and is being disposed of on merits based on the available records and submissions made on behalf of the revision petitioner.

5. This court heard Mr.R.Abdul Mubeen, learned counsel for the revision petitioner and perused the records carefully.

6. The learned counsel for the revision petitioner submitted that the order of the Executing Court is contrary to the very fundamentals of Order XXI Rule 48 of the Code of Civil Procedure. He further brought to the notice of this Court the judgments of the Hon'ble Supreme Court in *Salem Advocate Bar Association, Tamil Nadu v. Union of India* [(2005) 6 SCC 344] and of the Hon'ble High Court in *Kotak Mahindra Bank Ltd., rep. by B. Muthu Kumar,*



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Senior Manager (South) v. Sivakama Sundari and others [(2011) 6 CTC 11], to

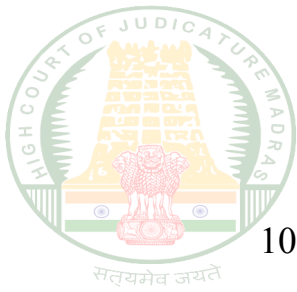
contend that no territorial limitation applies to the attachment of salary under Order XXI Rule 48 CPC, and that the court executing the decree has the jurisdiction to issue a garnishee order to the employer, even if the employer or the garnishee is located outside its territorial limits.

7. The issue that arises for consideration in this revision petition is:

Whether the execution petition is not maintainable before the City Civil Court at Chennai on the ground that neither Judgement-Debtors 2 to 4 nor the garnishee are within the territorial jurisdiction of the executing court?

8. This Court has considered the submissions made by the learned counsel for the revision petitioner and perused the entire materials available on record.

9. As the amount due under the award was not paid, an application for execution, along with all the required information, was filed before the Arbitrator, Chit Fund Cases Court, for issuance of a certificate under Section 71 of the Chit Funds Act, 1982. The Registrar, in turn, transmitted the decree to the City Civil Court at Chennai for execution.



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10. Rule 55 of the Tamil Nadu Chit Funds Rules, 1984 reads as follows:

“55. Procedure for execution of awards.—(1) Every order or award passed by the Registrar, or his nominee under Section 68 or 69 shall be forwarded by the Registrar to the foreman or to the party concerned with instructions that the foreman or as the case may be, the party concerned should initiate execution proceedings forthwith according to the provisions of Section 71.

(2) If the amount due under the award is not forthwith recovered, or the order thereunder is not carried out, it shall be forwarded to the Registrar with an application for execution along with all information required by the Registrar, for the issue of certificate under Section 71. The applicant shall state whether he desires to execute the award through a Civil Court or through the revenue authorities as provided under Section 71.

(3) On receipt of such application for execution, the Registrar shall forward the same to the proper authority for execution along with a certificate issued by him under Section 71 and a proclamation issued under rule 54 in the manner prescribed therein.”

11. In pursuance of the certificate issued by the Registrar of Chits, the revision petitioner filed an execution petition before the City Civil Court at Chennai.

12. It is relevant to note that Section 39 of CPC deals with transfer of decree which reads as follows:

39. Transfer of decree—(1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court of competent jurisdiction,—

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or



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personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate court of competent jurisdiction.

(3) For the purposes of this section, a Court shall be deemed to be a court of competent jurisdiction if, at the time of making the application for the transfer of decree to it, such Court would have jurisdiction to try the suit in which such decree was passed.

(4) Nothing in this section shall be deemed to authorise the Court which passed a decree to execute such decree against any person or property outside the local limits of its jurisdiction.

13. Section 39 of the Code of Civil Procedure, 1908 (CPC), was amended by Act 22 of 2002, inserting sub-section (4) to clarify the powers of the Court regarding the execution of decrees. This amendment came into effect on 01.07.2002.

14. When the constitutional validity of various provisions of the amendments made to the Code of Civil Procedure was challenged, the Hon'ble Supreme Court, in *Salem Advocate Bar Association, Tamil Nadu v. Union of*



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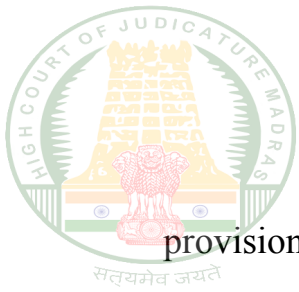
in paragraphs 22 to 24 has held as follows:

“**22.** Section 39(1) of the Code provides that the court which passed a decree may, on the application of the decree-holder send it for execution to another court of competent jurisdiction. By Act 22 of 2002, Section 39(4) has been inserted providing that nothing in the section shall be deemed to authorise the court which passed a decree to execute such decree against any person or property outside the local limits of its jurisdiction. The question is whether this newly added provision prohibits the executing court from executing a decree against a person or property outside its jurisdiction and whether this provision overrides Order 21 Rule 3 and Order 21 Rule 48 or whether these provisions continue to be an exception to Section 39(4) as was the legal position before the amendment.

23. Order 21 Rule 3 provides that where immovable property forms one estate or tenure situate within the local limits of the jurisdiction of two or more courts, any one of such courts may attach and sell the entire estate or tenure. Likewise, under Order 21 Rule 48, attachment of salary of a government servant, railway servant or servant of local authority can be made by the Court whether the judgment-debtor or the disbursing officer is or is not within the local limits of the court's jurisdiction.

24. Section 39 does not authorise the court to execute the decree outside its jurisdiction but it does not dilute the other provisions giving such power on compliance with the conditions stipulated in those provisions. Thus, the provisions, such as, Order 21 Rule 3 or Order 21 Rule 48 which provide differently, would not be affected by Section 39(4) of the Code.”

15. The above dictum clearly establishes that Section 39 of the CPC does not authorize the Court to execute the decree outside its jurisdiction; however, it does not dilute other provisions that confer such power, subject to compliance with the conditions stipulated therein. The Hon'ble Supreme Court held that



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provisions such as Order XXI Rule 3 or Order XXI Rule 48, which provide

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16. Order XXI, Rule 48 of the Code of Civil Procedure, 1908 (CPC)

reads as follows:

48. Attachment of salary or allowances of servant of the Government or railway company or local authority.—

(1) Where the property to be attached is the salary or allowances of a servant of the Government or of a servant of a railway company or local authority or of a servant of a corporation engaged in any trade or industry which is established by a Central, Provincial or State Act, or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), the Court, whether the judgment-debtor or the disbursing officer is or is not within the local limits of the Court's jurisdiction, may order that the amount shall, subject to the provisions of Section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as the appropriate Government may by notification in the Official Gazette appoint in this behalf,—

(a) where such salary or allowances are to be disbursed within the local limits to which this Code for the time being extends, the officer or other person whose duty it is to disburse the same shall withhold and remit to the Court the amount due under the order, or the monthly instalments as the case may be;

(b) where such salary or allowances are to be disbursed beyond the said limits, the officer or other person within those limits whose duty it is to instruct the disbursing authority regarding the amount of the salary or allowances to be disbursed shall remit to the Court the amount due under the order, or the monthly instalments, as the case may be, and shall direct the disbursing authority to reduce the aggregate of the amounts from time to time to be disbursed by the aggregate of the amounts from time to time remitted to the Court.



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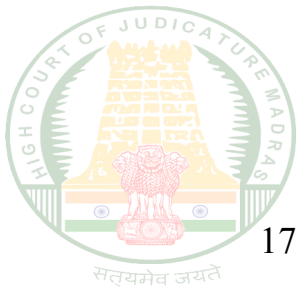
(2) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the appropriate Government in this behalf shall forthwith return the subsequent order to the Court issuing it with a full statement of all the particulars of the existing attachment.

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the appropriate Government or the railway company or local authority or corporation or Government company, as the case may be, while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits, if he is in receipt of any salary or allowances payable out of the Consolidated Fund of India or the Consolidated Fund of the State or the funds of a railway company or local authority or corporation or Government company in India; and the appropriate Government or the railway company or local authority or corporation or Government company, as the case may be, shall be liable for any sum paid in contravention of this rule.

Explanation.—In this rule, “appropriate Government” means,—

(i) as respects any person in the service of the Central Government, or any servant of a railway administration or of a cantonment authority or of the port authority of a major port, or any servant of a corporation engaged in any trade or industry which is established by a Central Act, or any servant of a Government company in which any part of the share capital is held by the Central Government or by more than one State Governments or partly by the Central Government and partly by one or more State Governments, the Central Government;

(ii) as respects any other servant of the Government, or a servant of any other local or other authority, or any servant of a corporation engaged in any trade or industry which is established by a Provincial or State Act, or a servant of any other Government company, the State Government.



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17. The above provision makes it abundantly clear that the Court may, whether or not the judgement-debtor or the disbursing officer is within the local limits of its jurisdiction, order that the amount shall, subject to the provisions of Section 60, be withheld from the salary or allowances of the judgment-debtor, either in one payment or by monthly instalments, as the Court may direct. Upon notice of the order to such officer as the appropriate Government may, by notification in the Official Gazette, appoint in this behalf, the direction shall take effect. This further clarifies that even if the judgment-debtor or garnishee is not within the jurisdiction of the Court, attachment of salary can still be ordered.

18. In *Kotak Mahindra Bank Ltd., rep. by B. Muthu Kumar, Senior Manager (South) v. Sivakama Sundari and others* [(2011) 6 CTC 11], this Court held that while an award passed by an arbitral tribunal is deemed to be a decree of a civil court under Section 36 of the Arbitration and Conciliation Act, 1996, there is no deeming fiction to hold that the court within whose jurisdiction the arbitral award was passed should be treated as the court which passed the decree. In the absence of any such provision in the Arbitration and Conciliation Act, 1996, neither can the court to which an execution petition is presented demand that the decree be transmitted from another court, nor is the award holder entitled to approach any other court seeking transmission—except



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in cases where part satisfaction is recorded in execution by one court and the remaining portion requires execution against property situated within the jurisdiction of another court.

19. Considering the well-settled position of law, the order of the executing court dismissing the execution petition solely on the ground that judgment-debtors 2 to 4 and the salary disbursing officer are outside the jurisdiction of the court is not correct. The order is unsupported by the corresponding provisions of law, and as such, the impugned order in the revision petition cannot be sustained in law. Accordingly, the revision petition is allowed.

In the result, the Civil Revision Petition is allowed, and the impugned order is set aside. The Executing Court is directed to take up the execution petition for fresh hearing, proceed further with the execution proceedings in accordance with law, and pass appropriate orders thereon on merits. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no

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To
1.The XXVIII Assistant Judge, City Civil Court, Chennai



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N.SATHISH KUMAR.J.,
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