



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 10.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.2510 of 2024

and

C.M.P(MD)No.14397 of 2024

1.C.Muthupandi

2.M.Sigappi

...Petitioners/Respondents/Respondents

Vs.

M/s.Sakthi Finance Limited,
By its Senior Manager-Law-S.Ragavan,
S/o.T.S.Sundaramurthi,
No.62, Dr.Nanjappa Road,
Coimbatore.

...Respondent/Petitioner/Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order, dated 05.08.2024 in E.P.No.47 of 2023 in A.C.P.No.69 of 2015, on the file of Principal District Court, Ramanathapuram, and allow the above C.R.P.

For Petitioners : Mr.D.Senthil

For Respondent : Mr.R.Sundar Srinivasan

* * * * *



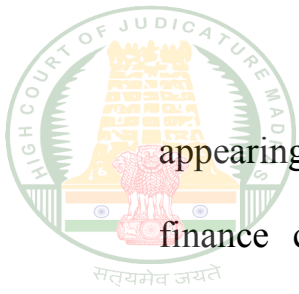
ORDER

WEB COPY

The respondent in E.P.No.47 of 2023, on the file of the Principal District Court, Ramanathapuram, has filed the present revision petition, challenging an order of attachment, dated 05.08.2024.

2.A perusal of the records reveal that the petitioners had entered into a loan agreement with the respondent finance company. In view of default, the finance company has appointed an arbitrator who has passed an ex-parte award on 11.02.2016. Based upon the said ex-parte award, the finance company has filed E.P.No.47 of 2023. In the said execution proceedings, the executing Court has passed an order on 05.08.2024 to attach the immovable property of the revision petitioners. Challenging the said order, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioners, the respondent finance company has unilaterally appointed the arbitrator which is clearly illegal, in view of the judgment of our High Court reported in **2023 (3) CTC 1**. The learned Counsel appearing for the revision petitioners has further contended that the same properties had already been mortgaged by the revision petitioners to Indian Bank. In such circumstances, the said properties cannot be attached by the respondent finance company. The learned Counsel



appearing for the revision petitioners has further contended that the respondent finance company had earlier filed E.P.No.49 of 2020, for attachment of movables and the said execution petition has been suppressed in the second execution proceedings in E.P.No.47 of 2023.

4.Per contra, the learned Counsel appearing for the respondent/finance company had contended that the higher purchase agreement provides for unilateral appointment of the arbitrator by the finance company and in such circumstances, the judgment of this Court reported in **2023 (3) CTC 1** is not applicable. He further contended that in case, if any mortgage has been created by the revision petitioners in favour of the Bank, they will work out their remedy before the Court. He further submits that the first E.P. was filed for attachment of movable property and the said execution petition was dismissed for default on 24.01.2022 and the same has been specifically mentioned in column No.F of the present E.P.No.49 of 2020.

5.I have considered the submissions made on either side and perused the materials available on record.

6.A perusal of the higher purchase agreement entered into between the petitioners and the respondent/finance company reveals that in clause No.16, the petitioners have agreed that the respondent finance company can nominate



an arbitrator of their choice. In such circumstances, the judgment of this Court reported in **2023 (3) CTC 1** is not applicable to the facts of the present case.

WEB COPY

7.The respondent finance company has not suppressed the dismissal of E.P.No.49 of 2020 for default and therefore, such a ground cannot be raised by the revision petitioners.

8.As far the of the plea of the revision petitioner that he had already mortgaged the property to Indian Bank is concerned, in case of attachment and sale, it is for the respondent finance company to work out the remedy *vis-a-vis* the Bank. Therefore, this Court is of the considered opinion that no legal grievance has been made out by the revision petitioners for calling for interference from this Court.

9.There are no merits in the Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

10.03.2025

Internet:Yes/No
Index:Yes/No
RJR



To

The learned Principal District Judge,
Ramanathapuram.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY

C.R.P.(NPD)(MD)No.2510 of 2



R.VIJAYAKUMAR, J.

RJR

C.R.P.(NPD)(MD)No.2510 of 2024

10.03.2025