



C.R..P.(PD)(MD).No.724 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.724 of 2025

and

C.M.P(MD) No.3844 of 2025

1. K.Sakthivel

2. S.Sumathi

... Petitioners/
Respondents/Respondents

Vs.

M/s. Shriram City Union Finance
No.123, Angappa Naiken Street,
Chennai – 600 001,
Having its Zonal Office at,
No.2, Sivananda Salai,
Madurai – 625 016,
Represented by its Authorized
Signatory Mr.C.Ganesh

... Respondent/
Respondent/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 05.08.2024 made in E.A.No. 6 of 2022 against E.P.No.39 of 2018 in A.C.P.No.60 of 2013 on the file of the V Additional District Court, Madurai.

For Petitioners : Mr.V.Manikandan



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ORDER

The judgment debtor in A.C.P.No.60 of 2013, on the file of the sole Arbitrator has filed the present Civil Revision Petition challenging the dismissal of his application under Order 21 Rule 26 of C.P.C.

2. A perusal of the records reveal that the revision petitioners have suffered an award at the hands of the sole arbitrator in A.C.P.No.60 of 2013, dated 09.11.2013, and to execute the said Award, an Execution Petition was filed in E.P.No.39 of 2018 for attaching the property and bringing them for sale. When the Execution Petition was pending, the judgment debtor has filed in E.ANo.6 of 2022 under Order 21 Rule 26 of C.P.C to stay the sale proceedings on the ground that he is contemplating to file an appeal as against the arbitration award. The said application has been dismissed. Challenging the same, the present Civil Revision Petition has been filed.



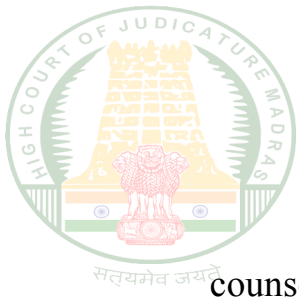
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3. According to the learned counsel appearing for the revision petitioners, the arbitration proceedings, arising out of money transaction, is not maintainable and therefore, the Execution Petition is also maintainable. The learned counsel for the petitioner has relied upon a judgment of this Court in **2024 (4) TLNJ 399 (Civil) (Rajammal Vs. M/s. Shriram City Union Finance Ltd)** to contend that a suit for enforcement of a mortgage being the enforcement of a right in rem, will have to be decided only by the Court of Law and not by Arbitral Tribunal. The learned counsel for the petitioners has further contended that when the judgment debtor is contemplating to file an appeal as against the award, in such circumstances, the executing Court ought to have granted stay under Order 21 Rule 26 of C.P.C.

4. Heard the learned counsel appearing for the petitioners and perused the material on records.

5. A perusal of the arbitration award reveals that the claim petition has been filed for recovery of money based upon the loan agreement and not based upon the any mortgage. Therefore, the judgment cited by the learned



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counsel appearing for the revision petitioners is not applicable to the facts of the present case. That apart, the award is dated 09.11.2013 and so far the revision petitioners have not filed any appeal. In such circumstances, this Court does not find any error in the order passed by the executing Court and there are no merits in the Civil Revision Petition.

6. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

07.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The V Additional District Court,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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