



WEB COPY

CRP No.3760 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.02.2026

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3760 of 2025

M/s Shriram Transport Finance Company Limited,
Represented by its Legal Representative
V.Saravanan

... Petitioner

Vs.

1.Prabu

2.Manikandan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 22.01.2025 made in EP No.49 of 2022 in ARC No.1587 of 2019 on the file of Principal Subordinate Judge, Kancheepuram.

For Petitioner : Mr.M.Raja Sekhar

For Respondents : Exparte

ORDER

Heard the learned counsel for the revision petitioner and I have also gone through the records.



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2. Notice to the respondents has been returned as “unclaimed”.

Further, the learned counsel for the petitioner states that even in the execution proceedings, the respondents have been served and they have not chosen to appear and therefore, they were called absent and set exparte.

3.The revision petitioner is the decree holder, who sought to execute an order passed in arbitration proceedings, Learned counsel for the petitioner, pointing out to the impugned order, would contend that the learned executing court suo-motu has taken up the mantle of the judgment debtor and in fact traversed beyond the decree and dismissed the execution petition which is impermissible in the eye of law. He would further state that even though it is a case of unilateral appointment of Arbitrator, the respondents have not challenged the Award and they have also not come forward with an application questioning the executability of the decree and in such circumstances, the executing court ought not to have suo-motu decided the legality or maintainability of the execution petition and proceeded to dismiss the same.



4. I find force in the submission of the learned counsel for the petitioner. Even though it was a case of unilateral appointment of Arbitrator, it is a ground for challenge by the aggrieved respondents by preferring a petition under Section 34 of the Arbitration and Conciliation Act, 1996 or by invoking Section 47 of Civil Procedure Code. Neither has been done in the present case and therefore, the executing court was bound to proceed to execute the decree as it stood. Unfortunately, the court has dismissed the execution petition on the sole ground that the appointment of Arbitrator was unilateral in nature. The executing court, therefore, clearly fell in error in law in dismissing the execution petition and the order passed is liable to be set aside by invoking of Article 227 of Constitution of India. Therefore, I am inclined to allow the revision and set aside the order dismissal of EP No.49 of 2022 on the file of Principal Subordinate Court, Kancheepuram and EP No.49 of 2022 is restored to file.

5. The Principal Subordinate Judge, Kancheepuram shall dispose of E.P No.49 of 2022 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.



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P.B.BALAJI.,J

sr

6. With the above direction, the civil revision petition is allowed. No costs.

09.02.2026

sr

Neutral Citation: Yes/No

Speaking Order/Non-speaking Order

Index : Yes / No

Website:yes/no

To

The Principal Subordinate Court, Kancheepuram

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