



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

EP No. 78 of 2026

M/s. Sunwin Papers,
Represented by its Proprietorix R.Thilagavathi,
Having its office at HB-84, 80 Feet Road,
R.M.Colony, Dindigul-624 001.

Presently residing at
No.22, Chellammal Colony 1st Street,
Samundipuram, Tiruppur-641 602
Represented by its Power of Attorney Mr.P.Raja
Sekaran,
No.22, Chellammal Colony 1st Street,
Samundipuram, Tiruppur-641 602.

..Petitioner(s)

Vs

K.Malarvizhi
W/o.K.Ganesan, F/45,
Authorized Signatory,
Sivadarshini Papers Ltd,
2/309-A, Harini Arcade, Vadavalli Post,
Coimbatore-641041.

..Respondent(s)

PRAYER:- Execution Petition filed under Order XXI Rule 10 & 11 of the CPC, 1906, for execution of decree dated 11.08.2022 passed in ARB.O.P. (COMMR.DIV) No. 195 of 2011 by attachment and sale of defendant's movable property Shares in the company Sivadarshini Papers Limited and Sivadarshini Poly Fabs on the names of 1.K.Malarvizhi w/o K.Ganesan, F/45, Director, 2. K.Ganesan, s/o Kandimuthu, Managing Director, in the company Sivadarshini Papers Limited. Nd Immovable Property belongs to the company Sivadarshini Papers Limited.



For Petitioner(s):

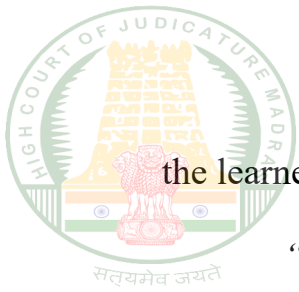
Mr.P.Raja Sekaran (party In Person)

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ORDER

The present Execution Petition had been filed seeking to execute an order made by this Court under Section 34 of the Arbitration and Conciliation Act. The petitioner had made a claim under the MSME Act wherein an Arbitrator was appointed and he had concluded that the claim of the petitioner would not fall within the Provisions of the MSME Act and thereby rejected the claim made by the petitioner. As against the same, the petitioner had approached this Court under Section 37 and by order dated 11.08.2022, the learned Judge of this Court had set aside the Award made by the sole Arbitrator. The same was challenged in an Intra-Court Appeal by the respondent wherein the learned Division Bench of this Court in its order dated 30.10.2024 affirmed the order made by the learned Single Judge and referred the claim made by the petitioner to an Arbitrator to be newly appointed for the reasons stated therein. The same was also the subject matter of the SLP filed by the respondent which came to be dismissed in the Hon'ble Apex Court in its order dated 24.03.2025.

2. It is also to be noted that thereafter an newly appointed Arbitrator had entered upon reference and on 11.08.2025 recording the statement made by the claimant as well as the respondent who had initiated counter claim and had terminated the arbitration proceedings. The relevant portion of the Minutes of



the learned Arbitrator recorded on 11.08.2025 is extracted hereunder:-

“The Claimant, at today's hearing, states as follows:

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a) That they were the "original claimant" in the first Arbitration I.A.F.No.32 of 2019 but they are not claimant in these proceedings.

b) An Award was passed in the said Arbitration on 01.10.2020 and thereby I.A.F.No.32 of 2019 has come to an end. The Claimant further states that the present Arbitration is not a continuation of the previous proceedings. They state that the Division Bench of the Hon'ble Madras High Court had referred this matter to the Madras High Court Arbitration Centre at the behest of the Respondent. Therefore, the present Respondent is the Claimant in the present Arbitration.

c) They stand by their application to terminate the present Arbitration.”

3. In the context of analysing the claim of the execution, it is to be seen that there has been no Award whatsoever made in favour of the petitioner to classify him as a Decree holder. As the proceedings initiated by the petitioner had been terminated upon his own request, this Court is of the view that the Execution Petition as filed by the petitioner is not maintainable and accordingly, the same stands dismissed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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