

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.L.M., LL.M.,**
PG.D.PM/IR.,

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Monday, the 4th Day of November 2024

E.P. No.279/2023

-in-

A.R.B. No. 162/2021

The Foreman,

M/s. Sree Gokulam Chits and Finance Company (P) Limited,

... Petitioner / Petitioner

-Vs-

1. K. Dilip Kumar

2. K. Sathish Kumar

3. R. Vijayarajan

4. R. Kamala Rani

5. R. Santhiya

... Respondents / Respondents

This petition came on 19.10.2024 before this Court for final hearing in the presence of Thiru.D.C.Centhil, Advocate for the petitioner, Tvl. V. Maria Selvaraj, P. Baskaran, Advocates for the Respondents 3 and 4, (E.P. against Respondents 3 and 4 only) and on heard their arguments and upon perusal of records this Court delivers the following :

ORDER

The Execution petition is filed by the petitioner / Award Holder under Order 21 Rule 54 and 66 of C.P.C.

2. The Execution Petition is filed by the Award Holder to execute the Arbitral Award passed by the Chit Registrar on 14.12.2022 against these defendants / Award Debtors. Since, the respondents did not pay the Award amount, the Award Holder has filed this execution petition to recover the Award amount with interest by bringing the properties debtors for sale after attaching them. Since, the respondent remained *exparte*, attachment was ordered on 30.11.2023 and the attachment was made absolute on 18.04.2024. Thereafter, the respondents file petition to set aside the *exparte* order and thereby entered appearance and filed the written statement.

3. The said *exparte* order was set aside and the respondents have filed counter *interalia* stating that the petitioner had obtained the Award from the Chit Registrar by filing false accounts. Thus, the respondents are liable to pay only Rs.3,00,000/-. But, the petitioner had wrongly obtained the Award for Rs.16,40,000/- from the Arbitral Tribunal. Hence, the execution petition for attachment and sale of property passed on a wrong award is not maintainable. Hence, the petition must be dismissed.

4. Point for consideration in this petition is, **Whether the petition be allowed ?**

5. No oral or documentary evidence were adduced on either side.

6. Heard the arguments of both sides.

7. **POINT :**

The contention of the respondents that the petitioner has obtained the Award from the Arbitration Tribunal by filing false accounts and for wrong amount, they have not filed any petition challenging the Award u/s. 34 of the Arbitration and Conciliation Act. Unless, the said award is set aside by the appropriate court u/s. 34 of the Arbitration and Conciliation Act, the Award is valid and can be enforced. The same cannot be challenged in the execution proceedings based on wrong calculation of accounts. Hence, the said contention of the Award Debtors cannot be sustained and they deserve to be rejected.

8. As already noticed, the respondents were set exparte and the attachment was made absolute by the Court on 18.04.2024. But, the said attachment was not raised after the respondents entered appearance. The respondents also have not taken any steps to raise the attachment. As such the attachment continues and hence there is no need to pass an order for attachment of properties afresh.

9. Having held that the objections raised by the respondents cannot be countenanced, it is held that the Award Holder / Execution petitioner is entitled to realize the Award amount by bringing the property for sale by court auction. Hence, it is held that the property be brought for sale. However, the petitioner has not filed sale papers in the execution petition. Hence, it is held that the property be sold in court auction after following the procedure on filing of sale papers and after issuing sale notice and after settlement of proclamation terms. This point is decided accordingly.

In the result, this Execution Petition is allowed and Sale is ordered. Sale papers by 19.11.2024.

Dictated to the stenographer, transcribed by her in computer, corrected and pronounced by me in the Open Court on this the 04th day of November 2024.

Additional District Judge,
Dindigul.