

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.

Thursday, the 21th Day of March 2024

E.P. No. 278/2023

-in-

A.C.P.No. No. 135/2021

The Foreman,

M/s. Sree Gokulam Chit & Finance Co., (P) Ltd.,

No.49, Arcot Road,

Kodambakkam, Chennai – 600 024.

... Petitioner / Petitioner

-Vs-

1. V. Priya

2. R. Vijayarajan

3. R. Kamala Rani

... Repondents / Repondents

This petition came on 22.02.2024 before this court for final hearing in the presence of Thiru. D.C. Centhil, Advocate for the petitioner. Thiru. P. Chennakrishnan, Advocate for Respondents 2 and 3 subsequently called absent and set exparte (petition against respondents 2 and 3 only), and on perusal of records this Court delivers the following :

ORDER

1. The Execution petition is filed under Order 21 Rule 54 and 66 of C.P.C by the award holder to execute the award passed by the Arbitral Tribunal on 18.05.2022, by attachment and sale of the schedule mentioned properties to recover the claim amount of Rs.23,13,280/-. The petitioner / award holder has obtained an arbitral award against the respondents for payment of Rs.16,40,000/- on 18.05.2022,. Since, the respondents did not repay the said amount, this Execution petition is filed to execute the said award and to recover the award amount with interest, by attachment and sale of the schedule mentioned properties.

2. The respondents 2 and 3 appeared through counsel but did not file their counter despite sufficient time granted and so they were set exparte on 22.02.2024.

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

4. **Answer to Point :**

The execution petitioner has obtained an award against the respondents

on 18.05.2022 from the Chit Funds Registrar / the Arbitral Tribunal under the Tamilnadu Chit Funds Act. The Arbitral Tribunal has awarded a sum of Rs.22,14,000/- to be repaid by the respondents. The respondents 2 and 3 / Award Debtor though appeared through Advocate have not filed any counter. Therefore, award passed by the Arbitral Tribunal constituted under the Tamilnadu Chit Funds Act against respondents u/s 66 and 67 of the Tamilnadu Chit Funds Act is sought to be executed since these respondents have not repaid the award amount.

5. The petitioner has also filed the certificate of non satisfaction as required under Section 71 (a) and Rule 55 (2) of Tamilnadu Chit Funds Act, 1982. These respondents though having sufficient means and the properties described in the schedule have not repaid the amount and hence the petitioner has prayed for attachment of the said properties and bring the same, the sale through court auction and realize the award amount.

6. The Award holder has filed Encumbrance Certificate showing that the schedule property stands in the name of the 2nd respondent Vijayarajan and Kamalarani 3rd respondent. Therefore, since the award amount has not been discharged by the respondents, even after the award was passed it is held that

the petitioner/award debtor is entitled for realisation of the award amount by attachment and sale of the schedule mentioned properties subject to any prior mortgage, if any.

7. Hence, it is held that the properties described in the schedule shall be attached and thereafter sold in court auction to realise the award debt. This point is decided accordingly.

In the result, this Execution Petition is allowed and attachment and sale is ordered. Attachment by 22.04.2024. Batta in a week.

Dictated to the stenographer, transcribed and typed by her in computer, corrected and pronounced by me in the Open Court on this the 21th day of March 2024.

Additional District Judge,
Dindigul.