

EP No.120/2020 in A.C.P. TF

No.22/2019

(CNR No.TNKK01-004788-2020)

12.08.2022

Records perused.

The arguments of the learned counsel for the petitioner/claimant were carefully considered by this court.

The execution petition was filed by the petitioner/claimant under Order XXI, Rules 54 and 66 and Section 151 of CPC, for attachment and sale of the schedule property belongs to the respondents/respondents in order to realize the EP amount.

It is the contention of the learned counsel for the petitioner/claimant that since the respondents failed to pay the dues to the petitioner/claimant, the petitioner/claimant initiated an arbitration proceedings before the Arbitral Tribunal at Tirunelveli for

recovery of money and the Arbitral Tribunal passed an award in favour of the petitioner/claimant on 28.12.2019; As per the award the respondents are liable to pay a total sum of Rs.10,30,912/- with interest on the arrear instalment and future principal amount of Rs.9,45,813/- at 18% per annum from the date of filing of claim petition till its realization and costs of Rs.3,000/-; Even after the award, the respondents failed to pay the award amount with interest and costs; Hence, the petitioner/claimant filed this execution petition for attachment and sale of the immovable property belongs to the respondents/ respondents; Hence, the order of attachment and sale of the schedule of property may be passed.

Though the 1st respondent filed counter (which was adopted by the 2nd

respondent) stating that the interest calculated is excessive and the petitioner/claimant calculated the amount without considering the Covid-19 pandemic period with malafide intention to harass the respondents and the 1st respondent paid Rs.2,00,000/- in a loan amount and after filing case also he paid Rs.75,000/- on various dates and if the petitioner claimed the amount with reasonable interest, the respondents are ready to pay the outstanding amount and the last due date is 10.08.2021 and even before the above said date, the petitioner filed the arbitration case. There is no representation on the side of the respondents. Hence, the respondents were called absent and set exparte on 14.07.2022.

A perusal of the records reveals that the petitioner/claimant obtained an Arbitral award in its favour on

28.12.2019 against the respondents for a sum of Rs.10,30,912/- with interest on the arrear instalment and future principal amount of Rs.9,45,813/- at 18% per annum from the date of filing of claim petition on 24.10.2019 till its realization and costs of Rs.3,000/-. Even after the award, the respondents failed to pay the award amount with interest and costs. Therefore, the petitioner/claimant filed this execution petition for attach and sale of the petition schedule property which belongs to the respondents/respondents. Under the said circumstances, this court finds that the petitioner/claimant is entitled to bring the schedule property for attach and sale in order to realize the EP amount. Hence, this court directs the Amin of this court to attach the immovable property mentioned in the execution

petition on or before 13.10.2022.

Attachment batta within 10 days. Call

on 13.10.2022.

Sd/-
P.D.J.