

IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE AT SALEM
PRESENT: Thiru. A. M. Ravi, B.A., B.L.,
I Additional District Judge, Salem.

Friday, the 27th day of September 2024.

R.E.P.No.34/2021

in

ARC 2/2019

Margadarsi Chits Pvt. Ltd.,

... Petitioner/ Decree Holder

/Vs/

1. A. Barani Priya

2. M. Chitty Babu

3. M. Velliyangiri

4. V. Tamilselvi

5. K. Anandan

... Respondents/ Judgment Debtors

This petition is came up before me on 19.09.2024 for final hearing in the presence of Thiru.D.M.Senthilkumar, Advocate for Petitioner and of Thiru.P.Hariharan, Advocate for the Respondents 2 & 3(EP against R2 & R3). On hearing both side arguments, and upon perusing the entire records and matter having stood over for considering till this day, this Court delivered the following :

ORDER

The Petitioner / Decree Holder filed an Execution Petition under Order XXI Rule 11 of C.P.C. to attach and sell the petition mentioned property for the realization of the award amount with interest and cost as per the award passed in ARC 2/2019 dated 01.10.2019.

2. The Summary of the averments in the petition filed by the Petitioner / Decree holder is as follows:-

The Petitioner / Decree holder obtained the award in ARC 2/2019 on 01.10.2019 for recovery of amounts due to the Company from them from the Deputy Registrar of Chits, Salem West. The Respondents / JD 2 & 33 having immovable properties as detailed in the schedule of EP petition and he had deposited the original documents pertaining to the property & executed the “Memorandum of Deposit of title deeds” on 01.12.2016 and the same was registered as Doc.No.3713/2016 in office of the Sub Registrar, Salem West. Even after passing the award, the Respondents / JD2 & JD3 have not come forward to pay any amount as per the award passed, and they have not filed any appeal against the said award. Hence, this petition.

3. The Summary of the averments in the Counter statements filed by the Respondents 2 & 3 are as follows :-

The Respondents not borrowed any money from the Petitioner's company, one Barani Priya was a subscriber of the Petitioner's chit company, and the Petitioner's company got the chit amount from the said Barani Priya and she paid the all debt, hence, they told that they already cancel their sureties. The Petitioner got the award without the knowledge of the Respondents. The interest calculation by the Petitioner in the petition

is illegal, exorbitant. The Petitioner filed this petition before the Deputy Chit Registrar and obtained ex parte decree against the Petitioner / Decree and he has not entrusted his property to anybody and the workers of the Decree holder chit collected the subscription from the JD and the Procedures are not followed by the Decree holder. The Petitioner has to prove the same, this petition is not maintainable and prayed to dismiss the petition.

4. Both side no oral and documentary evidence produced.

5. Both sides arguments heard.

6. The Point for consideration in this petition is that Whether this petition is deserved to be allowed or not?

POINT :-

7. The Petitioner / Decree holder filed this Execution application to attach and sell the petition mentioned immovable property of the Respondents / Judgment Debtors for the purpose of the realization of the Decree amount with interest and cost and Decree passed in ARC 2/2019 dated 01.10.2019. There is no appeal against the said Award and Decree. The Respondents / Judgment Debtors not come forward to pay the Decree amount with interest and with cost as on date. Hence, this execution application.

8. The Respondents / Judgment Debtors objection in their counter is that interest calculation by the Petitioner in the 7th and 8th column is illegal, exorbitant and the Petitioner filed this petition before the Deputy Chit Registrar and obtained exparte decree against the Petitioner / Decree and he has not entrusted his property to anybody and the workers of the Decree holder chit collected the subscription from the JD and the Procedures are not followed by the Decree holder.

9. Considering the contention submitted by the both sides and on careful perusal of the case records it reveals that there is no appeal pending against the award passed in ARC 2/2019 as on date. The Respondents / JDs not come forward to pay the award amount with interest. This EP filed in the year of 2021, it is pending for the past 3 years. Considering the facts and circumstances and the interest of justice and to enjoy the fruits of the Decree this petition is allowed. The Property already attached.

IN THE RESULT:-

This petition is allowed. Sale papers by 22.10.2024.

The order dictated to the Steno-typist, directly typed by her, corrected and pronounced by me in the Open Court, the 27th day of September 2024.

**I Additional District Judge,
Salem.**

APPENDIX :

List of Petitioner side witnesses : NIL

List of Petitioner side Documents : NIL

List of Respondent side witnesses : NIL

List of Respondent side Documents : NIL

**I Additional District Judge,
Salem.**