

**IN THE COURT OF ADDITIONAL DISTRICT,
(FAST TRACK COURT)
THENI.**

**Present: Mr.C.SANKAR, B.A. M.L. P.G.D.C.F.S.,
Additional District Judge,
(Full Additional Charge)
Theni.**

Wednesday day, the 03rd day of December 2025.

CNR.No.TNTH01 001025 2023

EP.No.48/2023

- in -

AC.No.64/2019

-

**Shriram Finance Limited.,
Theni Branch-II,
through represented the Power of Attorney,
A.P.Sargurunathan.**

... Petitioner

// Vs. //

1. Mayakkal.

2. Velusamy.

... Respondents

This petition came up for final hearing before this Court on 14.10.2025, in the presence of Mr.K.Tamilmani, Learned Counsel for the petitioner and Mr.P.Kannan, Learned Counsel for the 1st respondent and the 1st and 2nd respondents are remained exparte and upon perusing the Petition, Counter and Documents and upon hearing both

side arguments and having stood over for consideration till this day, this Court delivered the following...

ORDER

This EP petition is filed by the petitioner under Order 21, Rule 43 of CPC to collect the claim amount from the Petition Schedule Properties mentioned in the petition by auctioning them.

Averments made in the Petition is filed by the petitioner in brief is as follows:

2) The petitioner of this petition has filed an original suit against the respondents seeking recovery of the claim amount and has obtained a Order. In this circumstances, the petitioner of this petition has repeatedly asked to the respondents in person and through people, but the respondents have not paid any amount. The Properties allotted to the respondents are mentioned in this petition. Therefore, the petitioner has filed this petition seeking to auction the Petition Schedule Properties and receive the proceeds from it. Hence, this petition has to be allowed.

Averments made in the Counter is filed by the 1st respondent in brief is as follows:

3) The petitioner company had taken a loan for a four wheeler from the 1st respondent on surety, and due to non payment of some of the installments, the petitioner company seized the four wheeler and left. Further, the petitioner company's employees said that they would sell the seized four wheeler, deduct the amount from the loan amount and hand over the remaining amount to the respondents and left. However, the petitioner company did not give any amount to the respondents. Furthermore, no Notice was sent to the respondents that the four wheeler was going to be sold. Hence, this petition has to be dismissed.

4) No documents or oral evidence let by the petitioner side. The respondents are remained exparte.

5) **Point for determination:**

1. **Whether this petition is allowed or not ?**

Point No.1.

6) Heard both sides. Perusal of records. The Learned Counsel for the petitioner side argued that, 5he petitioner of this petition has filed an original suit against the respondents seeking recovery of the claim amount and has obtained a Order. In this circumstances, the petitioner of this petition has repeatedly asked to the respondents in person and through people, but the respondents have not paid any amount. The Properties allotted to the respondents are mentioned in this petition. Therefore, the petitioner has filed this petition seeking to auction the Petition Schedule Properties and receive the proceeds from it. Hence, this petition has to be allowed.

7) The Learned Counsel for the 1st respondent side argued that , the petitioner company had taken a loan for a four wheeler from the 1st respondent on surety, and due to non payment of some of the installments, the petitioner company seized the four wheeler and left. Further, the petitioner company's employees said that they would sell the seized four wheeler, deduct the amount from the loan amount and hand over the remaining amount to the respondents and left. However, the petitioner company did not give any amount to the respondents. Furthermore, no Notice was sent to the respondents that the four wheeler was going to be sold. Hence, this petition has to be dismissed.

8) In this petition filed by the petitioner, it has been stated that, in order to recover the amount of Rs.12,96,646/- from the respondents with interest, the Petition Schedule Properties belonging to the respondents should be attached and auctioned and the proceeds should be collected. Further, on the part of the respondents, it was objected that, the petitioner company claimed that, it was selling the vehicle to collect the claim loan amount and had seized the vehicle from the respondents. But no Notice was received from the petitioner regarding the amount for which the said vehicle was sold and the amount remaining.

9) The original Award copy of the award passed on 31.10.2019 in Arbitration Case No.64/2019 has been filed by the petitioner. As per the award, the respondents approached the petitioner Shriram Finance Limited for a loan amount of Rs.1,41,140/- for the purchase of a vehicle TATA SFC 709 FBT 1996 Model, bearing registration No.TN 45 W 3132 and on that, basis the 1st respondent signed a loan Mortgage Deed on 18.02.2013 and agreed to pay the said amount along with interest amount of Rs.75,830/- for 36 months installments. However, it has been proved that, the respondents have not paid the said loan amount for a period of time and there is an outstanding amount on that, basis. Further, the respondents are required to repay the award amount of Rs.8,07,714/-, Rs.4,83,012/- at 18% interest from 01.11.2019 to 27.02.2023 and thereafter this petition cost amount of Rs.20/-, the Arbitration Case cost amount of Rs.2,900/- and the Pleader Fee of Rs. 3,000/-, totaling amount of Rs.12,96,646/- to the petitioner. Further, it has been informed that, the award has been passed to recover the amount from the other Petition Schedule Properties attached to the respondents and also personally. Further, a copy of the original Award has been filed by the petitioner in order to prove the objection of the respondents. It is clear that, the petitioner company has sent the Legal Notice to the respondents on 12.08.2019 and that, the respondents have been remained exparte in Arbitration Case No.64/2019. However, the respondents

have not filed any appeal against the said case. At present, if the Petition Schedule Properties entrusted to the respondents are not auctioned and sold it will be impossible for the petitioner company to recover the claim amount.

10) Further, as stated in the petitioner company's petition, the respondents have not paid the award amount even after several months of the award order. No documents have been filed by the respondents after the award order. Furthermore, no documents have been filed by the respondents denying the allegations made by the petitioner company. Therefore, this Court decides that, the petitioner company is entitled to attach and auction the Petition Schedule Properties given to the respondents and collect the claim amount from them, as requested by the petitioner company.

11) In the result this, petitioner's petition is allowed without costs. The Petition Schedule Properties are ordered to be attached. Batta in three days. Attach by 05.01.2026.

Dictated by me directly typed by Stenographer into computer, corrected and pronounced by me in the open Court, this the **03rd day of December, 2025.**

**Additional District Judge,
(Full Additional Charge)
Theni.**

Petitioner side Witnesses and Nil.

Documents:

Respondents side Witnesses and Nil.

Documents:

**Additional District Judge,
(Full Additional Charge)
Theni.**

ORDER

EP 48 / 2023

in

**AC No.64/2019
Additional District
Court,
(Fast Track Court)
Theni.**