

**THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUPPUR**

Present:- Thiru. N. Gunasekaran, M.B.A., B.L.,

Principal District Judge, Tiruppur

Wednesday, the 3rd day of September, 2025

E.P.No. 15/2025
in
Arb. Case No.SF/PG.89/18
(CNR.No.TNTI-1800-1448-2025)

M/s. Sundaram Finance Limited,

Rep. by its Assistant Manager (Legal)

... Petitioner / Decree holder

Vs.

1. R. Vasantharaj

2. R.Eswaran

... Respondents / Judgment

Debtors

On 31.07.2025, this petition came up before me for final hearing in the presence of Thiru.S.Vijayaganth, Counsel appearing for the petitioner, Thiru.A.Arumugam, Counsel appearing for the respondent No.1, upon hearing both side and on perusal of case records, this Court delivers the following:-

ORDER

This Execution petition is filed under Order 21 Rule 11(2) of Code of Civil Procedure to order attachment of the petition mentioned properties of the 1st respondent and to issue Sale Proclamation and to sell

Date: 03.09.2025

Principal District Court, Tiruppur

the same in public auction to enable the petitioner to realize the amounts due under the decree with subsequent interest and cost.

2) Case of the 1st respondent in brief from his counter statement reads as follows:-

The petitioner is put to strict proof of various allegations in the petition except that are admitted herein. As per the Award passed in the Arbitration case, the 1st respondent was directed to pay a sum of Rs.27,05,504.77 to the petitioner. The 1st respondent has sold lorry bearing Regn. No. TN 37 CP 1356 and TN 37 CP 1382 and paid Rs.7,00,000/- each on 22.01.2021 and 30.01.2021, respectively, and as such paid Rs.14,00,000/- to the petitioner in total. After that he had obtained No objection Certificate to file before Motor Vehicle Inspection Centre. Further, he has paid Rs. 24,00,000/- in total before the I Additional District Court, Tiruppur towards E.P.Nos. 4/2022, 05/2022 and 06/2022 on its file. The petition mentioned properties alleged to have owned by the 1st respondent was already settled by him on 12.02.2025 in favour of one Maragatham, D/o. Rangasamy Gounder, residing at Dasampalayam, Sembianallur Village, Avinashi Taluk and is under her absolute possession. Hence, the 1st respondent has no right or title over the petition mentioned properties. Without calculating the correct interest rate and crediting the amount paid by the 1st respondent, the petition has filed this petition and so it is not maintainable. Hence, the petition is liable to be dismissed with cost.

3) The Point for consideration is

Whether the petition mentioned property alleged to have been belonged to the 1st respondent has to be attached and sold in public action

so as to enable the petitioner to realize the amounts due under the decree with subsequent interest and cost?

4) **Point:-**

Both side heard. Records perused. The petitioner is a Public Limited company and carries on business of hire purchase and loan on motor vehicles, machinery and leasing of vehicles and equipments. The 1st respondent had obtained a loan facility of Rs.33,00,000/- for the purchase of two number of Bharat Benz lorry for which the 2nd respondent stood as a guarantor. Since the 1st respondent has made default in repayment an Arbitration case was filed by the petitioner and the Sole Arbitrator had passed an award; dated: 21.02.2020 directing the respondents No.1 and 2 jointly and severally to pay the petitioner a sum of Rs.27,01,504.77 with interest at the rate of 18% p.a. from 05.04.2019 till the date of realization along with interest at 18% p.a. on Rs.27,80,774.77 for the period from 30.03.2019 to 04.04.2019 with a cost of Rs.5,000/-. The petitioner has filed this Execution Petition to realize the aforesaid award amount along with interest and cost by seeking an order of attachment and sale of the petition mentioned property.

In contra, the 1st respondent would contend that he has paid Rs.7,00,000/- each on 22.01.2021 and 30.01.2021, respectively, and without crediting the said amount, the petitioner has filed this petition and on 12.02.2025, he had settled the petition mentioned properties in favour of one Maragatham and hence, the same cannot be attached and sold.

5) A perusal of documents filed by the petitioner would reveal that an award in Arbitration Case No. SF/PG/89/18 was passed by the

Sole Arbitrator on 21.02.2020 as against the respondents herein, the Assistant Manager (legal) of the petitioner company is authorized to file the petition as per the Board Resolution and authorization letter and the petition mentioned property was owned by the 1st respondent as per sale deed; dated: 16.09.1998. Admittedly, through the encumbrance certificate filed on the side of the petitioner as document No.7, it is clear that he had settled the petition mentioned property in favour of one Maragatham on 12.02.2025. After passing of the Arbitration Award; dated: 21.02.2020, his act of settling the same in favour of another person would reveal that it is a gratuitous transfer executed by him only with an intention to defeat the rights of the creditor viz. the petitioner herein. It is pertinent to note that the respondents have preferred no appeal or revision against the said Award and hence, it attains finality and is binding the parties in it. There is no valid ground to oppose the petition seeking for execution of the same. By considering **the principle laid down by the Hon'ble High Court, Madras in T.Komati Vs. M/s. Sundaram Finance Ltd., Chennai and 2 others in Applications Nos. 1034 and 1035/2019 in E.P. Nos. 70 and 71/2016**, this Court is inclined to attach the petition mentioned property and accordingly, the point is answered.

In the result, the petition is allowed and attach by 14.10.2025.

Dictated to the Steno-typist, typed by her directly on Computer, corrected and pronounced by me in the open Court and uploaded in the Case Information System, on this 3rd day of September, 2025.

Principal District Judge,
Tiruppur.

LIST OF WITNESSES & EXHIBITS ON BOTH SIDE : Nil

P.D.J.,
Tiruppur.

Draft / Fair Order
E.P.No.15/2025 in
Arb. Case No.SF/PG.89/18
Dated: 03.09.2025.
P.D.J. Court, Tiruppur.