

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE, (F.T.C.),
KUMBAKONAM**

Present : Tmt. J. Rathika, M.A.,M.L.,
Additional District & Sessions Judge, (F.T.C.), Kumbakonam.
Wednesday the 26th day of March, 2025.

E.P.No. 37 of 2024 in ARC. No. 126/2018

M/s. Shriram Finance Ltd., (formerly known as Shriram
Transport Finance Co. Ltd., rep. by its authorized
signatory, branch office at No.41, Second Floor, Ravi ... Petitioner/
Plaza, Gandhi Adigal Salai, Kumbakonam. Decree Holder.

//VS//

1) A. Parveen Banu. Respondents/
2) V. Senthilkumar ... Judgment Debtors.

This petition came before this court for final hearing on 18.03.2025 in the presence of Thiru.S.Murali, Advocate for the petitioner/Decree holder, and in the presence of Thiru.M.Soundararajan, Advocate for the respondents and having heard both side argument and having stood over for consideration till this day, this court delivers the following..

ORDER

This Petition has been filed by the petitioner as against the respondents, u/Or. 21, Rule 11(2), 43, 66 and Sec. 151 of CPC, to pass an order of attachment of the petition mentioned movable properties and for sale, so as to realise the E.P. mentioned amount of Rs.12,85,016/-.

2) Petition averment in brief: -

This Execution Petition is filed by the petitioner as against the respondents, to attachment of the petition mentioned movable properties, which belongs to the respondents and for sale, so as to realise the Decree amount with interest and with costs as per the Award passed in ARC. No.126/2018, dt:17.05.2018.

3) Counter averments filed by the 1st respondent and adopted by the 2nd respondent:-

The petition is not maintainable under law. The respondents did not know

about the proceedings of the ARC. No.126/2018 and the Award passed on 17.05.2018. Only on receipt of the notice in the execution proceedings, this respondent has come to know about the ARC proceedings. No notice was served to the respondents with regard to the ARC proceedings. The Award was passed without hearing the respondent and hence the Award dt: 17.05.2018 is not sustainable. Therefore, the respondent is not liable to pay the Award amount and hence prayed to dismiss the petition.

4) The Point for consideration in this Execution Petition is whether this petition has to be allowed or not?

5) Heard both side. Documents perused. On perusal of the Award, dt: 17.05.2018 in ARC.No.126/2018,, it came to know that the Sole Arbitrator, Kumbakonam has directed this respondents to pay a sum of Rs.6,26,990/- along with interest @ 18 % per annum from the date of claim petition (ie., 31.03.2018), till the date of realization with costs, either jointly or severally, and as per the Award, the petitioner / decree holder has filed this execution petition as against this respondents, for a sum of Rs.12.85.016/- to pass an order for an attachment of the petition mentioned movable properties and for sale, which belongs to them.

6) The respondents has stated that they were no aware of the ARC proceedings and no notice was served to the respondents with regard to the ARC proceedings and thus the Award passed in ARC. No.126/2018 on 17.05.2018 will not bind them and only receipt of the notice in the execution proceedings, they came to know about the ARC proceedings and its Award and prayed to dismiss the Execution Proceedings. But, as far as this court is concerned, it is being an execution court, it cannot go beyond the Decree / Award and it is bound to act upon the Award. If the respondents have any grievances regarding the alleged improper adjudication of ARC proceedings and the maintainability of Arbitration Proceedings, it is the respondents' to take proper and necessary actions before the proper forum and hence, this court, being an execution court, could not look in to the said allegations. Further, as of now, the Award passed by the Arbitrator, Kumbakonam is not stayed by any appellate forum and hence the

same is an executable one. This court, being an Executing Court, can not go beyond the Award / Decree and as such, the other averments made in the counter are in no way useful to the respondent. Further, it is not denied by the respondents that the petition mentioned movable properties, which are sought for attachment and sale in this petition, are not belongs to them. Hence, the petitioner is entitled for the relief as prayed in the execution petition.

In the result, this petition is allowed and the petition mentioned movable properties are hereby ordered to be attached to realise the E.P. amount. Attach by: 28.04.2025. Batta in 3 days. Call on: 28.04.2025.

Directly dictated to the Steno typist, directly typed out by her on her computer, corrected and pronounced by me, in the open court on this day, the 26th day of March, 2025.

Sd/- (J. RATHIKA)
Additional District & Sessions Judge,
(Fast Track Court) Kumbakonam.