

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
TIRUVANNAMALAI**

**PRESENT : Tr. B.C. GOPINATH, M.L.,
Additional District Judge,
Tiruvannamalai,**

Tuesday, the 12th day of August, 2025

E.P.No.67 / 2024 in ARB.No. 1608 / 2021

CNR NO.TNTM01-002437-2024

M/s. Shriram Finance Limited (Formerly known as Shriram
Transport Finance Company Limited, Represented
by its Authorised Representative J. Lourdusamy

.... Petitioner / Award Holder

/vs/

1. A. Settu,
2. T. PremKumar,

...Respondents/Judgment Debtors

This petition coming before me for final hearing on 05.08.2025 in the presence of Tr. M. Jayavel Advocate for the petitioner and the respondents called absent set exparte and after hearing the arguments of petitioner's and upon perusing the records and having stood over for consideration, till this day, this court passed the following

ORDER

Execution petition under Order XXI Rule 37 & 38 of CPC, for arrest and confinement in Civil Prison.

2) Petitioner's case in brief :

The petitioner is a Finance company represented by its Authorized Representative. The 1st respondent availed a business loan from the petitioner's company for which the 2nd respondent was a guarantor. The respondents failed to repay the loan and therefore the dispute was referred to Arbitration. The sole Arbitrator, who is a retired Senior Civil Judge passed an Award dated 27.09.2022 directing the respondents to pay the Award Amount. However the respondents did not pay any amount to the petitioner and therefore the above execution petition has been filed for realizing the debts.

3) Notice was issued to the respondents / Judgment debtors. On 19.08.2024 the 2nd respondent remained absent and set exparte. Similarly on 25.04.2025 the 1st respondent was set exparte after substituted service was taken.

4) During exparte enquiry, the Manager of petitioner's Company was examined as PW1 and Ex.P-1 was marked.

5) This court has heard the submissions of the petitioner and perused the materials.

6) **Now the point for consideration is whether an Order of Civil Arrest can be passed against the respondents in the above Execution petition ?**

Point :

7) Ms.Shriram Finance Ltd, represented by its Authorized representative Tr. J. Loordhusamy is the Petitioner / Award Holder. The above execution petition has been filed to realize the Arbitral Award in case No.1608/2021, dated 27.09.2022. On perusing the Award dated 27.09.2022, it is seen that the petitioner, a non-banking Finance Company extended a loan to the 1st respondent for purchase of a Maruthi Dzire commercial vehicle bearing Registration No. TN AK 3875. A hypothecation agreement was also executed and the 2nd respondent was guarantor. The petitioner alleges that 1st respondent, who was irregular in payment failed to pay and they also remained absent before the Arbitral Tribunal and action was taken in their absence. Accordingly, the learned Arbitrator, in his Award directed the respondents 1 and 2 to jointly and severally to pay the Claimant / Petitioner Rs.10,25,587/- with 36 % interest and costs.

8) PW1 Venkatesan, the Manager of the petitioner's company has deposed about the above facts. He has further stated that the respondents possess moveable and Immoveable property in their native place and they are doing business. They are also earning through their business and are sufficiently possessed to repay the debt. But however they are reluctant to comply with the Arbitral Award and are frustrating the petitioner. Hence, it is necessary to pass an Order of arrest against them to realize the Award Amount.

9) With the respondents remaining absent throughout, there is hardly any resistance to the petitioner's case. It is not in dispute that the petitioner's Finance Company extended a business loan to the 1st respondent Tr. A. Settu who executed a loan Agreement. The 2nd respondent Tr. T. Premkumar is the guarantor. After the dispute was referred to Arbitration, they remained absent and allowed the proceedings to continue and eventually the Award dated 27.09.2022 came to be passed. The petitioner contends that although the respondents are possessed with sufficient means and income to satisfy the Award, they are shying away from paying the amount to defraud the petitioner. There is no resistance to this allegation. Hence this court concludes that the respondents / Judgment Debtors who are under a legal

liability to satisfy the Arbitral Award are wilfully neglecting to pay the amount. As such they have rendered themselves liable to be arrested in the Execution proceedings under Order XXI Rule 37 & 38 CPC. The point is answered accordingly.

In the result, the petition is allowed. Arrest by 12.09.2025. Batta in 5 days.

Dictated to the Steno-Typist, transcribed and computerized by her corrected and pronounced by me in open Court this the 12th day of August, 2025.

**Additional District Judge,
Tiruvannamalai.**

Petitioner side witness : Nil

Petitioner side Exhibits :-

Ex.P1 – original Letter of Authorisation

Respondent side Witness and Exhibits :- Nil

**Additional District Judge,
Tiruvannamalai.
UPLOADED ON : 12.08.2025.**

