

IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: THIRU. K.VENKATESAN, B.A.,B.L.,
DISTRICT MUNSIF, KATPADI

Thursday, this the 22nd Day of August – 2024

E.P.No. 57 of 2023
In
A.C.P.No. 1912 of 2022
(CNR.NO.TNVL23-000160-2023)

M/s. Shriram Finance Limited.,
 (Formerly known as M/s/ Shriram City Union Finance Ltd.,)
 Rep., By their Authorized Representative – S.Santhakumari

.....Petitioner/Decree Holder

-/Vs/-

1. A.Velu
 2. Latha

.....Respondents/Judgment Debtors

This petition is coming on 19.08.2024 for final hearing in the presence of Thirumathi. G.Latha, the Counsel for the Petitioner/Decree Holder, and even after receipt of notices, the Respondents-1 & 2/Judgment Debtors-1 & 2 have failed to appear & filed Counter, and they were called absent and set Ex-parte on 21.09.2023, and upon perusing the petition, and the available material records, and having stood over for consideration till this day, this Court delivers the following:-

ORDER

1. This Execution Petition has been filed Under Order XXI Rule 43, and 64, 66 of Code of Civil Procedure by the Petitioner/Decree Holder seeking for execution of

Award amount by attachment and Sale of the Movable Properties of Judgment Debtors, mentioned in the Schedule, for Recovery of E.P Claim Amount of Rs.21,684/- (Rupees Twenty One Thousand Six Hundred and Eighty Four Only) in pursuance of an Arbitration Award passed in A.C.P.No (SCUF/N.M.K/PL/VLR) 1912/2022, dated 29.12.2022.

2. After taking the Execution Petition on file, this Court had ordered notices to the Respondents-1 & 2/Judgment Debtors-1 & 2. The Court notices sent to the Respondents/Judgment Debtors were served on them. Even after service of notices, the Respondents have failed to appear and to file their Counter, and they were called absent and set Ex-parte on 21.09.2023.

3. During enquiry, on the side of Petitioner/Decree Holder, its Authorized Representative Thirumathi. S.Santhakumari, was examined herself as P.W-1 and no document was marked through her. On the other hand, no oral or documentary evidence was adduced on the side of the Respondents/Judgment Debtors.

4. The Learned Counsel for the Petitioner/Decree Holder in her argument contented that the Award attained finality and the Award amount remain unpaid and as on date, no appeal is pending against the Award, and no stay is granted staying the operation of the Award. It is further contented by the Decree Holder side Counsel that the Schedule mentioned properties belongs to the Respondents/Judgment Debtors, and they are in possession of the same, and prayed this Court to allow this Execution

Petition. On the contra, the Respondents/Judgment Debtors were called absent and set Ex-parte on 21.09.2023.

5. **Points for Consideration:-**

- a) Whether the petition is entitled to be allowed or not?

6. **Answering to the Point:-**

6.1 Heard. Records Perused and considered the argument advanced by the Learned Counsel for the Decree Holder. In the Arbitral Proceedings, the Respondents herein are the Respondents (the Judgment Debtors-1 & 2 herein) and they are the borrowers, and they remained ex-parte in the Arbitral Proceedings. On 29.12.2022, Arbitration Award was passed in A.C.P.No.(SCUF/N.M.K/PL/VLR) 1912/2022 by the Sole Arbitrator Shri. N.M.Karthikeyan, in favour of the Claimant (the Decree Holder herein), directing the Respondents to pay the Claim Amount sum of Rs.15,954/- together with interest at the rate of 18% p.a., from the date of filing of the claim petition till the date of realization, and also, to pay the cost of the arbitration proceedings at Rs.1,250/- to the Claimant.

6.2 The Award attained finality. The Award amount remain unpaid. The liability of the Judgment debtors are already determined. The Liability of the borrowers are co-extensive. This Court cannot go beyond (or) behind the Decree/Award. This Execution Petition filed against the Judgment Debtors and they have not shown sufficient cause

before this Court as to why this Execution Petition should not be proceeded against them.

6.3 The Petitioner Counsel contented that the Respondents have deliberately disobeyed the Award, prayed to pass an order Execution of Award by Attachment and Sale of the Movable properties of Judgment Debtors, mentioned in the Schedule, for recovery of E.P. Claim amount of Rs.21,684/- (Rupees Twenty One Thousand Six Hundred and Eighty Four Only). There is no rebuttal evidence. Considering the above all these facts, this Court satisfied that the Respondents are in possession of the petition mentioned Movable properties, and they are having sufficient means but they failed to make payment towards the said Award Amount. Having established the stated facts by the Petitioner, this Court considering the above, and to realize the Award Amount, this Court is inclined to bring the Movable properties of Judgment Debtors' as mentioned in the Petition Schedule Items Nos.1 and 2 alone, and that would itself suffice to satisfy the present E.P. Claim Amount, and for Sale by making an order of Attachment over the same. There is no order as to Attachment on the Remaining petition Schedule mentioned Items Nos.3 to 8, and they are free from Attachment. Accordingly, the Point is answered in favour of the Petitioner.

7. **Result:-**

From the above said discussions, in the interest of justice, this Execution Petition is allowed. The Judgment Debtors' Movable properties such as the petition Schedule

mentioned Items Nos.1 and 2 alone, are hereby ordered to be attach. For Attachment on Batta. Batta in 3 days. Call on 12.09.2024.

-//Dictated by me to the Steno-typist, who directly typed the same, corrected and pronounced by me in the Open Court, on this the 22nd Day of August – 2024.//-

(Sd/-).. K.Venkatesan
DISTRICT MUNSIF
KATPADI

Petitioner side Witnesses:-

1. P.W-1 - S.Santhakumari (The Authorized Representative)

Petitioner side Exhibits:

- Nil

Respondents side Witnesses and Exhibits:

- Nil

(Sd/-).. K.Venkatesan
DISTRICT MUNSIF
KATPADI