

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

Tuesday, this the 30th Day of April – 2024

**E.P.No. 73 of 2023
In
A.C.P.No. 526 of 2022
(CNR.No.TNVL23-000209-2023)**

Equitas Small Finance Bank Limited.,
Rep., by its Authorized Signatory A.Elavarasan

.....Petitioner/Decree Holder

-/Vs/-

1. S.Jayaprakash
2. G.Subramani

.....Respondents/Judgment Debtors

This petition has come up today before this Court for orders, and upon hearing the arguments of Thiru. D.Mathews Devapandian, the Counsel for the Petitioner/Decree Holder, and after receipt of notice, the 2nd Respondent was called absent and was set ex-parte on 24.01.2024, and upon perusing the petition, means evidence and the available material records, and having stood over for consideration till this day, this Court delivers the following:

ORDER

This petition has been filed by the Petitioner/Decree Holder to recover the Execution Petition mentioned amount of Rs.55,987/- (Rupees Fifty Five Thousand Nine

Hundred Eighty Seven Only) from the 2nd Respondent/2nd Judgment Debtor, and on his failure, to arrest him and detain him in Civil Prison under Order 21, Rule 37 and 38 of Civil Procedure Code.

1. In Affidavit stated that the Petitioner is the Decree Holder in above Execution Petition, and represented through its Authorized Signatory Agent. After passing of decree, the Respondents have not paid any amount till this date, and the 2nd Respondent has get extensive immovable properties and is worth about Rs.50,00,000/- and earning Rs.50,000/- per month from the immovable properties, but he is evading to pay the amount, and he has got sufficient means to pay. Hence, the Petitioner filed this Execution Petition against the 2nd Respondent for arrest him.

2. After taking the Execution Petition on file, this Court had ordered notice to the 2nd Respondent/2nd Judgment Debtor. The Court notice sent to the 2nd Respondent was served on him, but he has failed to file appear before this Court and he was called absent and set ex-parte on 24.01.2024.

3. In order to prove means, one A.Elavarasan, the Authorized Signatory Agent was examined himself as P.W-1 and no documents were marked through him.

4. The Petitioner Counsel argued that the respondents obtained loan from the Petitioner and they have failed to repay the loan dues, and then, arbitration proceedings initiated and Award also has been passed in favour of Petitioner, hence the present execution petition has been filed only against 2nd Respondent to recover the Award

amount, and even after receipt of Court notice, the 2nd Respondent has failed to appear & was set ex-parte, and the Petitioner deposed evidence to prove the means of 2nd Respondent, and there is no contra evidence produced by the 2nd Respondent, and prayed to allow this petition.

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. On perusal of records it is seen that the Arbitration Award was passed in Claim Petition No. VP/ESFB/526/2022 on 17.04.2023 by the Sole Arbitrator Mr. P.H.Vinodh Pandian, in favour of the Petitioner, directing the respondents to pay the Claim sum of Rs.47,000/- along with further interest at the rate of 18% p.a., from 24.02.2023 till the same is realised in full, and also to pay the Arbitrator's fee of Rs.3,500/- along with a sum of Rs.500/- towards cost of the proceeding. No payment was made by the Respondents to the Petitioner towards the Award amount. Since, the Respondents had not complied with Award dated: 17.04.2023, the Petitioner had filed this Execution Petition only as against the 2nd Respondent.

6.2 The 2nd Respondent notice was served on him, but he has failed to appear before this Court. Hence, the 2nd Respondent was called absent and set ex-parte on 24.01.2024.

6.3 Means evidence was recorded. The Petitioner's Authorized Signatory A.Elavarasan was examined as P.W-1 by way of proof affidavit, and he has deposed evidence stating that the 2nd Respondent has got extensive immovable properties and is worth about Rs.50,00,000/-, and he is earning a sum of Rs.50,000/- per month from the immovable properties, and he has got sufficient means to pay the Award amount to the petitioner, however, the 2nd Respondent is evading to make the payment. That there is no rebuttal evidence.

6.4 Considering the above all facts, this Court satisfied that the 2nd Respondent having sufficient means failed to make payment towards the said Award amount. Having established the stated facts by the Petitioner, this Court decides that the Petitioner is entitled for the relief recovery of amount mentioned in this petition. Accordingly, the point is answered in favour of the Petitioner.

7. **Result:-**

In fine, from the above discussions, in the interest of justice, this Execution Petition is allowed. Arrest is ordered against the 2nd Respondent. Arrest by 25.06.2024. Batta within 3 days.

-//Dictated by me to the Steno-typist, who directly typed the same, corrected and pronounced by me in the Open Court, on this the 30th Day of April – 2024.//-

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

Petitioner side Witnesses:

P.W-1 – A.Elavarasan, the Authorized Signatory

Petitioner side Exhibits: - Nil

Respondents side Witnesses and Exhibits: - Nil

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