

CRP(MD).No.576 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGOVAN

CRP(MD).No.576 of 2024 and
CMP(MD).No. 2859 of 2024

Sahayaraj

... Petitioner

Vs.

1.M/s. Shriam Transport Finance Company Ltd.,
rep. by its Authorised representative
K.Sasikumar

2.Selvakumar

... Respondents

PRAYER:- Petition filed under Article 227 of the Constitution of India against the order and decree, passed by Principal District Judge, Kanniyakumari District at Nagercoil in E.P.No.126 of 2021, dated 12.06.2023 in ACP.No.22 of 2020 on the file of the Arbitral Tribunal (Sole Arbitrator), Kanniyakumari, dated 03.10.2020.

For Petitioner : Mr. P.Prithivirraj

ORDER

This Civil Revision Petition is filed against the fair and decreetal order, dated 12.06.2023 made in E.P.No.126 of 2021 in



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ACP.No.22 of 2020 on the file of the Principal District Judge,
Kanniyakumari District at Nagercoil.

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2. The Arbitral award was passed in A.C.P.No.22 of 2020 on the file of the Arbitral Tribunal (Sole Arbitrator), Kanniyakumari, wherein it is stated that in spite of the receipt of notice, the revision petitioner herein and other 2nd respondent remained absent. There was a loan given on hypothecation agreement in respect of the commercial vehicle. There was a delay in payment of amount in spite of the legal notice, dated 18.05.2020. On the basis of the records produced, the award was passed directing the respondents 1 and 2 therein to pay jointly or severally a sum of Rs.62,32,808/- with interest. That was not put to challenge by the revision petitioner by filing a proper petition before the competent authority. So it has become final.

3. Later, E.,P.No.126 of 2021 was taken out by the finance company to execute the order. The said Execution Petition was resisted by the revision petitioner stating that rate of interest claimed in the application is exorbitant one and illegal also and no proper accounts were also produced before the arbitrator. The vehicle was also taken over by



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the first respondent.

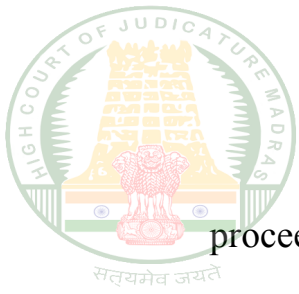
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4. After hearing both sides the executing Court rejected the objection made by the revision petitioner stating that no proper steps have been taken to set aside the arbitration award, so the attachment of movable property shown as "B" schedule was awarded. Against which the present revision is preferred.

5. Heard the learned counsel for the revision petitioner. Since no adverse order is passed against the respondents, notice to the respondents is not necessary.

6. The learned counsel appearing for the revision petitioner repeated the very same averments that was made by him before the executing Court. He would also submit that since the award is passed on 03.10.2020, now, he cannot challenge the same because of the lapse of time. He would also submit that the rate of interest is also exorbitant and the payment were also not taken into account.

7. The petitioner remained ex parte in the arbitration



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proceeding and he has not taken any steps challenging the arbitration award within the stipulated time. Without challenging the arbitration award, executing Court cannot go behind the Award and decide the issue afresh. Such courses are not available to the executing Court. So the executing Court has rightly rejected the contention raised by the petitioner and proceeded with the execution petition. Hence, I do not find any illegality in the order passed by the Court below.

8. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

04.03.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

1. Principal District Judge, Kanniyakumari District at Nagercoil
2. The Arbitraral Tribunal (Sole Arbitrtor), Kanniyakumari,



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G.ILANGOVAJ.

Trp

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