

(2008) 11 MAD CK 0237

In the Madras High Court

Case No : Civil Revision Petition (NPD) No. 3288 of 2007 and M.P. No's. 1 of 2007 and 1 of 2008

S. Sukumar and others

APPELLANT

Vs

Margadarasi Chits Limited, A-Wing, Flat No. 1 and 2, 2nd Floor, Parsn Maners, 602 Anna Salai, Chennai 600006

RESPONDENT

Date of Decision : 07-11-2008

Acts Referred:

Citation : (2008) 11 MAD CK 0237

Hon'ble Judges : V. Ramasubramanian, J

Bench : Single Bench

Advocate : G. appavu, for the Appellant; D. Shivakumaran, for the Respondent

Judgement

V. Ramasubramanian, J.—This Civil Revision Petition arises out of the dismissal of an order passed by the Executing Court merely directing the petitioners/ judgment debtors to make payment in accordance with the decree. Heard Mr. G. Appavu, Learned Counsel appearing for the petitioners and Mr. D. Sivakumaran, Learned Counsel appearing for the respondent.

2. The respondent obtained a money decree against the petitioners in ARC No. 41 of 2002 dated 11.12.2002. That decree has attained finality. Therefore, the respondent filed E.P. No. 768 of 2003. Payments were made in that execution petition and that execution petition was closed on 17.11.2006.

3. Contending that from the date of filing of E.P. No. 768 of 2003, interest upto the date of last repayment remained unpaid, the respondent filed a fresh execution petition in E.P.3374 of 2006. The petitioners objected to the second execution petition on the ground that the award of interest at 24% per annum by the Arbitrator was contrary to law and that no interest was payable beyond the date of filing of the execution petition. Both contentions were rejected by the court below and the court below directed the petitioners to make payment in accordance with the decree. It is against this order that the petitioners are before this Court.

4. On the first question relating to the rate of interest, unfortunately, the petitioners have allowed the Arbitration Award in ARC No. 41 of 2002 to attain finality. Therefore, the Executing Court cannot be expected to go beyond the decree.

5. On the second question, the contention of the petitioners is not correct on principle. When an execution petition is filed on a particular date, the total amount due is indicated in column No. 9 of the form prescribed. Naturally, the amount indicated in column No. 9 would include interest only up to the date of filing of the execution petition. Therefore, after the claim in the execution petition is satisfied, it is but natural to seek further proceedings for the recovery of the interest due from the date of filing of the first execution petition. It is this finding of the court below, which cannot be found fault with. Therefore, this civil revision petition dismissed. It is open to the petitioners to file a memo of calculation and invite an order as to what is the amount due from them to the respondent and thereafter, work out their remedies in accordance with law. The Court below is directed to dispose of E.P. No. 3374 of 2006 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected M.Ps. are closed.