

(2005) 09 MAD CK 0119

Madras High Court

Case No: C.R.P. (NPD) No. 1490 of 2005 and CMP No. 12500 of 2005

S. Vengatesan and S. Krishnaveni

APPELLANT

Vs

Sri Ram Chits and Investment
Private Ltd.

RESPONDENT

Date of Decision: Sept. 23, 2005

Hon'ble Judges: M. Chockalingam, J

Bench: Single Bench

Advocate: J. Nandagopal, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M. Chockalingam, J.

Challenging an order of the learned District Judge, Nagapattinam, made in CMA No.10 of 2001 affirming an order of the learned Subordinate Judge, Thiruvarur, ordering the Execution Petition in E.P.No.50 of 2000, this revision has been brought forth by the defendants/judgment debtors.

2. Heard the learned Counsel for the petitioners. No case is made out even for admission of the revision.

3. From the available materials, it could be seen that pursuant to the passing of a decree by the Chit Fund Court, Tanjore, directing the petitioners herein to pay a sum of Rs.2,66,616/- to the respondent herein, it was put on execution by the respondent in E.P.No.50 of 2000 before the Sub Court, Thiruvarur. When the execution proceedings were taken out, the same was contested by the petitioners herein by filing a counter inter alia stating that the Executing Court has failed to note that there was no agreement between the parties to pay interest; that apart from that, the respondent was asking for the same when they were not entitled for that; and that the Executing Court failed to note that the respondent Chit Company has not given dividend to the petitioners, but were claiming the amount which they were

not entitled for that. On enquiry, the learned Subordinate Judge found that all those contentions should have been raised before the Chit Fund Court, which passed the decree, and not before the Sub Court, and ordered the E.P. Aggrieved over the same, the petitioners herein took it on appeal in CMA No.10 of 2001 before the District Court, Nagapattinam. After hearing both sides in the appeal, the learned District Judge affirmed the order of the Sub Court. Hence, this revision at the instance of the judgment debtors.

4. The grounds raised in the revision, are perused. The Court heard the learned Counsel for the petitioners. No one ground is made to attack the order passed in the Execution Petition. All the contentions raised by the petitioners" side, were rejected by the learned Subordinate Judge who passed the order in the E.P., for the reasons that they do not merit acceptance, and they should have been raised before the Chit Fund Court, which passed the decree. This Court is of the view that the lower Court was perfectly correct in rejecting the said contentions. The petitioner does not make out a case even for admission of this revision.

5. In the result, this civil revision petition is dismissed at the admission stage itself. Consequently, connected CMP is also dismissed.