

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

Coram:

THE HONOURABLE Mrs.JUSTICE ARUNA JAGADEESAN

**C.R.P.(NPD).No.1086 of 2009
and
M.P.No.1 of 2009**

M/s. KICm (Madras) Ltd.
Rep. By its Director,
Maheskumar,
S/o Chockalingam,
Kekkaty Road,
Yelanhalli Village,
Nilgiris District.

.. Petitioner

Vs.

R.Rangasamy,
S/o Rakiappan,
Door No.44/13, R.K.Puram,
Ootacamund,
Nilgiris District.

.. Respondent

Prayer

Civil Revision Petition filed under Article 115 of C.P.C. against the order dated 23.01.2009 in E.P.No.15 of 2008 in O.S.No.4 of 2007 on the file of District Court, Nilgiris at Ootacamund.

For Petitioner : Mr.R.Suramanian

For Respondent : Mr.K.Rakhunathan

ORDER

This civil revision petition is filed as against the order passed by the learned District Judge, Nilgiris, in E.P.No.15 of 2008 in O.S.No.4 of 2007 dated 23.01.2009.

2. The respondent herein has filed a suit for specific performance of an agreement dated 23.9.2005 for supply of the balance of 8560 tons of spent compost by the defendant/petitioner herein and for mandatory injunction, directing to supply the same at the agreed rate of Rs.265/- per ton against the payment for such supply by the plaintiff/respondent herein, after adjusting the balance advance amount of Rs.18,83,400/-, or in the alternate, directing the defendant/petitioner herein to pay Rs.47,51,000/- as refund of balance advance amount and damages with interest at 23% per annum.

3. A decree was passed against the petitioner herein for a sum of Rs.55,43,773/-. The respondent herein filed Execution Petition in E.P.No.15/2008 on the file of District Court, Nilgiris, for recovery of the decretal amount. In the meanwhile, the petitioner filed First Appeal before this Court in A.S.No.661/2008 against the said decree passed by the District Court, Nilgiris. This Court passed a conditional order of stay for a period of eight weeks, directing the

petitioner herein to deposit the advance amount of Rs.18,83,400/- along with 50% of the liquidated damages in M.P.No.1/2008 in A.S.No.661/2008 dated 11.08.2008. But, the petitioner herein/ judgment debtor did not deposit the amount as directed by this Court by order dated 11.08.2008 and therefore, the stay granted by this Court, stood vacated.

4. In the Execution Petition, the learned District Judge, Nilgiris, after hearing both the parties, passed an order of attachment of the properties on 23.01.2009, rejecting the plea made by the petitioner that the First Appeal was pending before the High Court. As against which, the present revision petition has been filed.

5. Learned counsel for the petitioner submitted that the petitioner Company has become defunct and thus, they were not in a position to comply with the order passed by this Court.

6. Admittedly, the petitioner failed to comply with the conditional order passed by this Court in M.P.No.1/2008 in A.S.No.661/2008 dated 11.08.2008. Therefore, the stay granted, stood vacated and it resulted in the order of attachment being passed by the learned District Judge, Nilgiris.

ARUNA JAGADEESAN.,J.
vsi

7. Considering the facts and circumstances of the case, I do not find any valid reason to interfere with the order dated 23.01.2009 passed by the learned District Judge, Nilgiris. Hence, the civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2015

Index:Yes/No
Internet:Yes/No
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To
The District Court,
Nilgiris at Ootacamand.

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