

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4572 of 2015

and M.P.Nos.1 and 2 of 2015

T.A. Mahalakshmi

.... Petitioner

vs

R. Sundarapandian

.... Respondent

Civil Revision Petition filed under Section 227 of the Constitution of India against the Order issued by the Additional Family Court, Coimbatore in E.P.No.2 of 2014 filed in I.A.No.1025 of 2008 in HMOP No.806 of 2007.

For Petitioner : Ms.T.A. Mahalakshmi

ORDER

Challenging the Order passed in E.P.No.2 of 2014 in H.M.O.P.No.806 of 2007 on the file of Additional Family Court, Coimbatore, the Decree Holder has filed the above Civil Revision Petition.

2. By Decree dated 20.12.2013, the Family Court directed the

respondent/Judgment Debtor to pay a sum of Rs.1,74,500/- towards arrears of maintenance on or before 03.01.2014 in H.M.O.P.No.806 of 2007. Pursuant to the decree granted by the Family Court, the revision petitioner filed an Execution Petition in E.P.No.2 of 2014, claiming a sum of Rs.1,74,800/-(Rupees one lakh seventy four thousand eight hundred only).

3. Since the respondent/judgment debtor paid a sum of Rs.1,74,800/- (one lakh seventy four thousand eight hundred only) in one stroke by way of demand draft, the Family Court terminated the Execution Petition on 13.07.2015. The petitioner, who appeared in person, submitted that the Family Court should have directed the Judgment Debtor to pay interest on the arrears of maintenance. But, on a perusal of the decree passed in H.M.O.P.No.806 of 2007 on 20.12.2013, it is clear that no interest was awarded to the revision petitioner. Pursuant to the decree passed in H.M.O.P.No.806 of 2007, the petitioner rightly claimed a sum of Rs.1,74,800/-, as decreed by the Family Court.

4. Since the Family Court has not awarded any interest, the Execution Petition was also filed, rightly for recovery of Rs.1,74,800/-,

which amount was also paid by the respondent/judgment debtor. If the petitioner is aggrieved over the decree, passed in H.M.O.P.No.806 of 2007 in not awarding interest, she should have filed an appeal as against the said decree, which was not done by the petitioner. Since the judgment debtor obtained a sum of Rs.1,74,800/-, as decreed by the Family Court, the Execution Court has rightly terminated the Execution Petition.

5. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court in E.P.No.2 of 2014 in H.M.O.P.No.806 of 2007 and hence the Civil Revision Petition is liable to be dismissed as devoid of merits. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected MPs are closed.

16-12-2015

sr

Index:no
website:no

To

The Additional Family Court, Coimbatore

M. DURAISWAMY,J.,

sr

CRP (NPD) No.4572 of 2015

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