

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

THE HON'BLE Ms. **JUSTICE K.B.K.VASUKI**

**CRP (NPD) No.3338 of 2009
and M.P.No.1 of 2009**

Mohan

... Petitioner

vs.

1.M/s.Shriram Chits Tamil Nadu Limited
represented by its Foreman
M.Rajendran

2.K.Saraswathi
(R2 is not necessary party
hence she is given up)

... Respondents

Civil Revision Petition is filed against the order dated 14.8.2009 made in R.E.P.No.305 of 2008 in A.O.P.No.6 of 2003 on the file of the Principal District Munsif Court, Salem.

For Petitioner : Mr.R.Nalliappan

For Respondent : Mr.P.Ravishankar Rao for
M/s.K.V.Ananthakrishnan -R1

ORDER

Heard both sides.

2.This Civil Revision Petition is filed against the order, directing the arrest of the second judgment debtor by name Mohan for his failure to pay the decree amount of Rs.47,469/-.

3.The main contention raised on the side of the 2nd judgment debtor/petitioner herein is that the order of arrest passed by the court below is a non-speaking order, without giving any reason and is not in accordance with law.

4.In order to appreciate the contention so raised herein, it is but necessary to reproduce the order impugned herein, which reads as follows:

"No stay, appeal. Decree still in force. No valid counter. Arrest by 11.9.2009".

This Court finds greater legal force in the contention raised on the side of the petitioner herein.

5.Be that as it may, the learned counsel for the petitioner/judgment debtor, during the pendency of this Civil Revision Petition, sought for several adjournments on the pretext of making payment. But inspite of repeated adjournments, no payment is forth coming. Today, the learned counsel for the petitioner/judgment debtor would make an appeal to this court to pass appropriate orders, granting further time for making payment, failing which, to enforce the order of arrest of the petitioner/2nd judgment debtor.

6.Considering the factors stated above, this Court is inclined to set aside the impugned order and remand the matter for fresh disposal in accordance with law.

7.In the result, the impugned order is set aside and the Executing Court is directed to hold fresh enquiry in REP.No.305/2008 in AOP.6/2003 and dispose of the same on merits and in accordance with law. The enquiry shall be completed within four weeks from the date of receipt of the copy of this order. Both the parties are directed to fully co-operate with the Executing Court for early disposal. On the failure of either of the parties to extend their co-operation, the Executing Court is directed to dispose of the case as per law.

8.The Civil Revision Petition is accordingly ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

rk
Index:Yes/No
Internet:Yes/No

29-07-2015

To
Principal District Munsif Court, Salem.

K.B.K.VASUKI, J.

rk

CRP (NPD) No.3338 of 2009

29.07.2015