

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.10.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4717 of 2015 &
M.P.No.1 of 2015

Sathasivam

... Petitioner

v.

Subramaniam

... Respondent

Civil Revision Petition filed under section 115 of Civil Procedure Code against the fair and decreetal order dated 17.11.2015 passed in E.P.No.26 of 2015 in O.S.No.112 of 2010 on the file of the Sub Court Neyveli.

For Petitioner : Mr.P.Mani

For Respondent : Mr.S.Sithirai Anandam

ORDER

Challenging the order passed in E.P.No.26 of 2015 in O.S.No.112 of 2010 on the file of Sub Court Neyveli, the judgment debtor has filed the above Civil Revision Petition.

2. Pursuant to the decree passed in O.S.No.112 of 2010 on the file of Sub Court, Neyveli, the respondent-plaintiff filed an Execution Petition in E.P.No.26 of 2015. The suit has been filed by the respondent-plaintiff for recovery of money.

3. Though the Execution Petition has been filed for recovery of a sum of Rs.5,70,730/-, the learned counsel on either side submitted that calculation has been wrongly made in the Execution Petition and the correct amount is only Rs.5,24,144/-.

4. When the Civil Revision Petition was taken up for hearing, Mr.P.Mani, learned counsel appearing for the petitioner submitted that a sum of Rs.1,50,000/- was already deposited by the judgment debtor pursuant to the conditional order passed by this court.

5. Learned counsel on either side submitted that the balance

amount remaining unpaid is Rs.3,74,144/-. The petitioner and the respondent filed a joint memorandum of compromise dated 24.10.2016 wherein, it has been stated that the petitioner-judgment debtor is willing to pay the said sum of Rs.3,74,144/- in 30 equal monthly installments. The respondent-decree holder also agreed to receive the said sum of Rs.3,74,144/- in 30 equal monthly installments.

6. Though the respondent-decree holder has not signed the compromise memo, Mr.S.Sithirai Anandam, learned counsel appearing for the respondent-decree holder submitted that he got instruction to say that the respondent-decree holder is willing to receive Rs.3,74,144/- in 30 equal monthly installments. Further, the learned counsel submitted that the respondent-decree holder may be directed to withdraw a sum of Rs.1,50,000/- already deposited by the petitioner-judgment debtor.

7. The learned counsel appearing for the petitioner has no objection for withdrawing the said amount.

8. Having regard to the submissions made by the learned counsel on either side, the respondent-decree holder is permitted to

withdraw a sum of Rs.1,50,000/- lying to the credit of E.P.No.26 of 2015 in O.S.No.112 of 2010 on the file of Sub Court, Neyveli. The petitioner-judgment debtor is directed to deposit the monthly installment to the credit of E.P.No.26 of 2015 till the entire outstanding amount is paid off. The order of attachment of the salary passed by the Executing Court is raised. In the event of petitioner-judgment debtor committing default in paying any one of the installment, the respondent-decree holder is at liberty to seek for attachment of the salary before the Executing Court.

9. With these observations, the Civil Revision Petition is disposed of in terms of joint memorandum of compromise dated 24.10.2016. The joint memorandum of compromise dated 24.10.2016 shall form part of the record. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

24.10.2016

Rj

To
The Sub Court
Neyveli.

M. DURAISWAMY,J.,

Rj

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