

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HON 'BLE **Dr.JUSTICE S.VIMALA**

CRP (NPD) No.1373 of 2016
and CMP.No.7657 of 2016

P.Kaliyaperumal

.. Petitioner

Vs

S.Thirugnanasambandam

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the order and decree of arrest made in E.P.No.41 of 2015 in O.S.No.2 of 2005 on the file of the I Additional Subordinate Judge, Cuddalore, dated 07.04.2016.

For Petitioner

:Mr.K.A.Ravindran

ORDER

The plaintiff is the revision petitioner herein and the first defendant is the respondent.

2. The first defendant has obtained a decree after taking up the matter upto the Second Appeal in S.A.No.777 of 2011.

3. The first defendant, decree holder, for cost has filed an Execution Petition in E.P.No.41 of 2015 in O.S.No.2 of 2005 on the

file of I Additional Sub Court, Cuddalore, under Order 21 Rule 37 of C.P.C., with a prayer to arrest the plaintiff in the event of non-payment of cost of Rs.1,32,327.50p.

4. That application to arrest the plaintiff has been ordered by an order dated 07.04.2016. This order is under challenge in this Civil Revision Petition.

5. The contention of the revision petitioner is that there was a out of court settlement between himself and the decree holder, and based on that, there was a document dated 02.06.2014, under which he is relieved from payment of cost. This document marked as Ex.R1 has been disbelieved by the Court and therefore no defense is open to the judgment debtor.

6. Then the learned counsel for the revision petitioner would make a request atleast for time for payment of cost.

7. Considering the penurious circumstances under which the plaintiff/revision petitioner is stated to have been placed, after the litigation in three Courts, the order of the Executing Court stands modified only to the extent of grant of time.

8. Two months time is granted for the revision petitioner/plaintiff to pay the cost (from 01.05.2016). Subject to this modification, this Civil Revision Petition stands disposed of.

28.04.2016

ds

Note : Issue order copy 29.04.2016

To:
The I Additional Subordinate Judge,
Cuddalore

S.VIMALA,J.

ds

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28.04.2016