

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.183 of 2016

Naveen Trades

... Petitioner

v.

M/s.Madhuxcon Projects Ltd.
Rep. By its Managing Director
Madhucon House
1129-A, Road No.36,
Jubilee Hills,Hyderabad – 500 033.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the petition order in E.P.S.R.No.27929 of 2015 in O.S.No.3945 of 2014, dated 09.10.2015 on the file of the IX Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.P.C.Harikumar_

ORDER

Challenging the order passed in E.P.S.R.No.27929 of 2015 in O.S.No.3945 of 2014 on the file of IX Assistant Judge, City Civil Court, Chennai, the plaintiff-decree holder has filed the above Civil Revision Petition.

2. Pursuant to the decree passed in O.S.No.3945 of 2014, the decree holder filed an Execution Petition in E.P.S.R.No.27929 of 2015.

3. It is brought to the notice of this court that by order dated 18.09.2015, the Execution Court found that the Execution Petition is maintainable and observed that Execution Petition has to be numbered. However, the Execution Court, for the reasons best known to them, struck off the order, and posted the matter on 19.10.2015 for orders and on 19.10.2015 without any notice to the petitioner, the Execution Court found that the Execution Petition is not maintainable.

4. It appears that the Execution has passed the order even without putting notice to the petitioner-decree holder. When the Execution Court had observed that the Execution Petition is maintainable, it has to be numbered. On 18.09.2015, the Execution Court, should not have struck off the order and posted the matter on 19.10.2015 and ultimately finding that the Execution Petition is not maintainable. In these circumstances, the petitioner should be given an opportunity to make their submissions with regard to maintainability of the Execution Petition.

5. In view of the same, I give liberty to the decree holder-plaintiff to make their submissions with regard to maintainability of the Execution Petition in E.P.S.R.No.27929 of 2015. The petitioner-decree holder shall

make their submissions with regard to maintainability of the Execution Petition within a period of one week from the date of receipt of a copy of this order. On receipt of copy of this order, the IX Assistant Judge, City Civil Court, Chennai, is directed to fix a date for hearing the submissions of the learned counsel for the petitioner with regard to maintainability of the Execution Petition. On hearing the submissions made by the learned counsel for the petitioner, the Execution Court shall decide the question with regard to maintainability of the Execution Petition on merits and in accordance with law.

With these observations, the Civil Revision Petition is disposed of.
No costs.

Index : Yes/No

25.01.2016

Note : Issue copy of the order by 29.01.2016

Rj

To

The IX Assistant Judge,
City Civil Court,
Chennai,

M. DURAISWAMY,J.,

Rj

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