

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.277 of 2016 &

C.M.P.No.1285 of 2016

Sekar Stores Home Mart
Rep. By its Partner
No.37, Arcot Road
Kodambakkam
Chennai – 600 024.

... Petitioner

v.

M/s.Sriram Engineers
Rep. By its Proprietor
Mr.Sivaramakrishnan
No.165/6, Indian Bank Colony
Kakkalur
Thiruvallur District.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the decretal and fair order passed by the IX Assistant City Civil Court at Chennai in E.A.No.4227 of 2015 in E.P.No.3933 of 2014 in dated 18.11.2015 with costs.

For Petitioner : Mr.T.T.Ravichandran

ORDER

Challenging the order passed in E.A.No.4227 of 2015 in E.P.No.3933 of 2014 on the file of IX Assistant Judge, City Civil Court, Chennai, the judgment debtor has filed the above Civil Revision Petition.

2. Pursuant the the ex-parte decree passed in O.S.No.6794 of 2013 on the file of XIII Assistant Judge, City Civil Court, Chennai, the respondent-decree holder filed an Execution Petition in E.P.No.3933 of 2014.

3. Since the judgment debtor remained absent before the Execution Court, the Execution Court set him ex-parte and passed an ex-parte order of attachment on 17.08.2015. Thereafter, the judgment debtor filed an application in E.A.No.4227 of 2015 under Order XXI, Rule 106 of CPC to set aside the ex-parte order dated 17.08.2015.

4. The Execution Court, allowed the application on condition that the judgment debtor depositing 1/3rd of the E.P. amount into the court on or before 18.12.2015. Challenging this order, the judgment debtor has come before this court by way of Civil Revision Petition.

5. Since the judgment debtor is facing the Execution Petition, they are liable to pay the decree amount. In these circumstances, the condition imposed by the Execution Court directing the judgment debtor to deposit 1/3rd of the E.P. amount is just and proper.

6. In view of the above, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. The judgment debtor is granted time till 26.02.2016 for depositing 1/3rd of the E.P. amount as ordered by the Execution Court.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2016

Index : No

Internet : Yes

Rj

To

The IX Assistant Judge,
City Civil Court,
Chennai

M. DURAISWAMY,J.,

Rj

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