

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.239 of 2013
and M.P.No.1 of 2013

1.M.Ellappan
S/o.Murugesu Udayar

2.E.Ramani
W/o.M.Ellappan
Both are residing at
No.2/469, Balaji Nagar,
Periapalayam Road,
Pakkam Village & Post,
Tiruvellore Taluk & District.

.. Petitioners/Respondents/Defendants

Vs

Subramaniya Reddiar
S/o.Munusamy Reddiar,
No.86, Pakkam Village & Post,
Tiruvellore Taluk & District.

.. Respondent/Petitioner/Plaintiff

Prayer:- Civil Revision Petition filed under Section 115 of Code of Civil Procedure praying to set aside the order and decretal order dated 07.11.2012, made in E.P.No.17 of 2012 in O.S.No.125 of 2006 on the file of the Court of the Subordinate Judge at Tiruvallur.

For Petitioners
For Respondent

:Mr.V.Srikanth
:Mr.C.Prabhakaran

ORDER

The decree holder/plaintiff has filed an Execution Petition No.17 of 2012 in O.S.No.125 of 2006 on the file of the Sub Court, Tiruvallur, seeking arrest of the judgment debtors for non-payment of decree amount and for costs. That petition was ordered by the Executing Court on 07.11.2012. Challenging the order of the arrest passed by the Executing Court, judgment debtors/defendants have filed this revision petition.

2. This Execution Petition has been filed for the total amount of Rs.3,82,095/-. Parties entered into a compromise before the Lok Adalat at Tiruvallur, wherein the petitioners are stated to have agreed that in final settlement of the entire due, the judgment debtor should pay a sum of Rs.1,85,000/-. On the day of settlement, the judgment debtor has paid a sum of Rs.20,000/-. Therefore the balance amount payable as per the award passed in Lok Adalat is Rs.1,65,000/-.

3. While passing orders in the application for stay, stay was granted subject to the condition of the judgment debtor depositing a sum of Rs.1,65,000/- to the credit of Executing Court, which was later modified, directing the judgment debtor to deposit the amount to the credit of CRP (NPD) No.239 of 2013 before this Court.

4. Accordingly, the amount having been deposited was permitted to be withdrawn by the decree holder in CMP.No.2216 of 2016 dated 22.02.2016.

5. Pointing out all these details, the learned counsel for the judgment debtor submitted that the entire balance has been paid and therefore, nothing survives in this Civil Revision Petition for adjudication.

6. Learned counsel for the decree holder submitted that as the amount due in the Execution petition was not paid within the time frame as agreed to in the Lok Adalat, the judgment debtor is liable to pay the entire decree amount as per the original decree and that it is not enough if the amount as ordered in Lok Adalat is paid.

7. The learned counsel for the judgment debtor submitted that it is a separate issue to be decided by the Executing Court.

8. In the result, the order of arrest passed in E.P.No.17 of 2012 in O.S.No.125 of 2006 is hereby set aside, leaving it open to

the revision petitioners to work out their further remedies before the Executing Court, in which the Execution Petition in E.P.No.17 of 2012 is pending.

8. Accordingly, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2016

ds

To:

The Sub Court,
Tiruvallur.

S.VIMALA,J.

ds

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