

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.03.2016

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

CRP (NPD) No.690 of 2016

Sulthan Ibunu

....

Petitioner

.Vs.

R.Muthukrishnan

....

Respondent

Prayer : Revision Petition is filed under Article 227 of the Constitution of India, seeking for a direction to dispose of E.A.No.30/2013 in E.P.No.55/2008 in O.S.No.86/2008, on the file of Sub-Court, Nagappatinam, within a reasonable time.

For Petitioner : Mr.Neelakandan

ORDER

This Civil Revision Petition has been filed seeking direction to the Sub-Court, Nagappatinam to dispose of E.A.No.30 of 2013 in E.P.No.55/2008 in O.S.No.86/2008, within a limited time frame.

2.The plaintiff is the revision petitioner.

2.1. The plaintiff filed a suit in O.S.No.86 of 2008, seeking

recovery of a sum of Rs.1,30,900/- along with interest @ 12% per annum with costs.

2.1. A Decree has been passed on 14.02.2011, directing the defendant/respondent to pay the plaintiff a sum of Rs.1,30,900/- with subsequent interest at 12% p.a. on Rs.1,10,000/- from the date of plaint till the date of realisation.

2.2. Thereafter, Execution Petition has been filed in E.P.No.55 of 2008. The plaintiff has also filed an application in E.A.No.30 of 2013, seeking permission of the Court to withdraw a sum of Rs.1,06,672/-.

3. A perusal of the notes paper would reveal that the Execution Application is kept pending on the ground that appeal is pending before the District Court in A.S.No.6 of 2014. That appeal has also come to be disposed of, on 09.07.2015. Thereafter, a Memo has been filed before the Court stating that the defendant intends to prefer the Second Appeal.

3.1. The learned counsel for the revision petitioner submitted that the plaintiff herein has filed the caveat and no notice has been served in the Second Appeal. Therefore, the implication is that, no Second Appeal has been filed so far and the respondent is taking time only to protract the Execution proceedings and to avoid the payment of decretal amount

to the plaintiff. He has further submitted that direction to the Executing Court for the speedy disposal of the Execution Application and Execution Petition would only help him in getting the decretal amount and no prejudice would be caused to the other side in giving a direction to the Executing Court to dispose of the Execution Application/Petition. This contention is acceptable.

4. Under such circumstances, this Court directs the Executing Court to dispose of Execution Application as well as the Execution Petition filed by the petitioner, within a period of one month from the date of receipt of a copy of this order.

5. This Civil Revision Petition is disposed of with the above directions. No costs.

03.03.2016

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Note: Issue order copy on 07.03.2016

To

The Sub-Court, Nagappatinam

S.VIMALA, J
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