

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P. (NPD) No.284 of 2006

Revathi

...Petitioner/Plaintiff

vs.

Pugalenth

... Respondent/Defendant

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order of District Munsif Court, Nagapattinam made in E.P.No.51/2004 in O.S.No.87/2003 dated 2.9.2005.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.Srinath Sridevan

ORDER

The instant Civil Revision Petition has been filed by the petitioner against the order dated 02.09.2005, passed by the Executing Court in EP No.51 of 2004 on the file of the District Munsif Court, Nagapattinam, dismissing the execution petition seeking arrest of the respondent.

1.1.The petitioner had obtained a money decree on 17.10.2003 in OS No.87 of 2003, against the respondent. In order to execute the decree EP No.51 of 2004 was filed before the Sub Court, Nagapattinam, seeking arrest of the respondent. The money decree was an Ex parte decree.

1.2.The respondent in EP No.51 of 2004 also filed a counter statement stating that excepting for a hut, he does not own any other property. He has also stated that he does not have the means to satisfy the decree obtained by the petitioner.

2.Heard the counsel on both sides.

3.The learned counsel for the petitioner submits that in a Motor Accident Claim before the Motor Accident Claims Tribunal, the respondent had disclosed that he was earning a monthly salary of Rs.8,000/- and therefore, according to him, he has the

means to pay the decretal amount.

4.The learned counsel for the respondent drew the attention of this Court to the findings of the Executing Court and submitted that the same submission made before this Court was considered by the Executing Court and the Executing Court has given a clear finding that no documents were produced by the petitioner before the Executing Court to establish that the respondents had the means to pay the decretal amount to the petitioner.

3.Since there is a clear finding by the Executing Court that the petitioner did not produce any document to establish that the respondent had the means to pay the decretal amount, I am in agreement with the findings of the Executing Court and the Executing Court has rightly dismissed the execution petition.

4.Accordingly, the CRP (NPD) shall stand dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

pam

To

The District Munsif,
Nagapattinam.

+lcc to Mr.S.Sounthar, Advocate SR.No.11934

C.R.P. (NPD) No.284 of 2006

SR(CO)
GN(27/02/2018)

WEB COPY