



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Twenty First day of June Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.9776 of 2017

IN

CRP(MD) No.116 of 2017

R.SIVAKUMAR

... PETITIONER / RESPONDENT

Vs

A.S.DHANASAMY,
S/O.AROCKIYASAMY
NOW AT PROPRIETOR
JENNY REAL ESTATE,

... RESPONDENT / PETITIONER

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner to withdraw the amount deposited by the respodent herein purusant to the order dated 23/01/2017 passed by this Honourable Court in CRP.No.116 of 2017 pending disposal of the above civil revision petition.

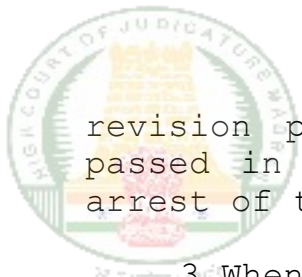
PRAYER IN CRP(MD) No.116 of 2017:-

to set aside the order dated 23.12.2016 passed by the learned Principal District Judge, Pudukkottai in E.P.No.58 of 2016 in O.S.No.47 of 2012 as pass such other or further orders as this Hon'ble Court.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.J.ANAND KUMAR, Advocate for the petitioner and of Mr.S.DEENADHAYALAN, Advocate on behalf of the Respondent, the court made the following order:-

It is not in dispute that the petitioner herein has filed the suit for recovery of money for a sum of Rs.10,00,000/- (Rupees Ten Lakhs) with interest on the basis of the promissory note alleged to have been executed by the revision petitioner / respondent in this petition.

2.It is also not in dispute that the suit in O.S.No.47 of 2012 was decreed as prayed for and that in execution of the decree, the petitioner has filed a petition for arresting the revision petitioner / defendant and the same was allowed by order dated 23.12.2016. The respondent in this application has filed the above



revision petition in C.R.P(MD).No.116 of 2017 against the order passed in execution petition in E.P.No.58 of 2016, directing the arrest of the revision petitioner.

3. When the civil revision petition came up for admission, this Court granted an order of stay by directing the revision petitioner to deposit a sum of R.5,00,000/-. It is also admitted that the revision petitioner / respondent deposited the amount to the credit of the execution petition in E.A.No.58 of 2016 before the Principal District Court, Pudukottai. The civil revision petitioner has also filed an appeal in A.S.No.126 of 2017 and obtained an order of stay.

4. In these circumstances, the petitioner herein, who is the respondent in the first appeal and the plaintiff in the suit filed this petition seeking permission to withdraw the amount deposited by the revision petitioner pursuant to the order of this Court, dated 23.01.2017. Though the learned counsel for the respondent has serious objections, having regard to the fact that the suit was filed in the year 2012, this Court, without prejudice to the parties on either sides to raise their contentions in the pending appeal, is inclined to pass the following order.

(i) The petitioner is permitted to withdraw the sum of Rs.5,00,000/- (Rupees Five Lakhs) deposited by the respondent herein, pursuant to the order of this Court dated 23.01.2017 to the credit of execution proceedings in E.P.No.58 of 2016, on the file of Principal District Court, Pudukkottai. However, the petitioner should furnish security equivalent to the amount to be withdrawn by him to the satisfaction of the execution Court. Upon furnishing security to the satisfaction of the Court executing the decree, it shall permit the petitioner to withdraw the amount as indicated above.

sd/-
21/06/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE PRINCIPAL DISTRICT JUDGE,
PUDUKKOTTAI

+1. C.C. to Mr.J.ANAND KUMAR Advocate SR.No.10247
+1 CC TO Mr. S.DEENADHAYALAN , Advocate, Sr.No. 10259
RMK
JAM/25/06/2018/ CM-VR /VK/ 2P-4C

ORDER IN
CMP(MD) No.9776 of 2017 IN
CRP(MD) No.116 of 2017
Date :21/06/2018