



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.319 of 2018

and

C.M.P. (MD) No.1517 of 2018

M.Selvam ... Petitioner/Petitioner/plaintiff

-vs-

K.P.Solai ... Respondent/Respondent/defendant

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order passed on 31.07.2017 in E.P.No.40 of 2000 in O.S.No.44 of 1997 on the file of the Sub Court, Pudukkottai to recover the total due amount of Rs.1,55,818/- from the respondent.

For Petitioner : Mr.S.Muthuvel

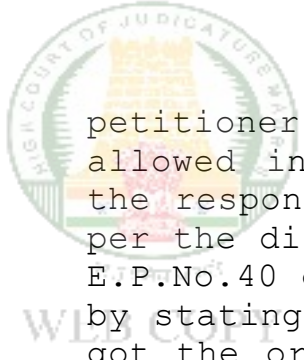
For Respondent : No Appearance

O R D E R

The petitioner herein is the plaintiff in O.S.No.44 of 1997 on the file of the Sub Court, Pudukkottai. The petitioner has filed the suit for recovery of money from the respondent herein. The learned Sub Court, Pudukkottai, had allowed the suit in favour of the petitioner. Thereafter, the respondent did not settle the amount. Hence, he filed E.P.No.40 of 2000 before the Sub Court, Pudukkottai to recover the decretal amount and the subsequent interest from the respondent. The Sub Court dismissed the said petition on 31.07.2017 on the ground that the property mentioned in the Execution Petition is not belonged to the petitioner herein. Challenging the same the petitioner is before this Court with the aforesaid prayer.

2.I have heard the learned counsel for the petitioner. Though notice has been sent to the respondent, the same was returned as 'refused'.

3.The learned counsel for the petitioner submitted that the petitioner has given a sum of Rs.60,000/- to the respondent herein. Since the respondent did not repay the said amount, the



petitioner has filed a suit in O.S.No.44 of 97 and the same was allowed in favour of the petitioner on 21.09.1999. Thereafter, the respondent has failed to pay the amount to the petitioner, as per the direction of the trial Court. Hence, the petitioner filed E.P.No.40 of 2000. The lower Court dismissed the said application by stating that the petitioner has forged the promissory note and got the order in O.S.No.44 of 1997 in favour of him. Hence, the petitioner is before this Court.

4.The learned counsel for the respondent submitted that the respondent did not get money from the petitioner as alleged in this petition and the petitioner has forged the documents as if the respondent had bought money from the petitioner and obtained a favorable order from the trial Court. He further submitted that the respondent is not owning any property, as alleged by the petitioner. He is not having any movable or immovable property.

5.Admittedly, the petitioner has filed the Execution Petition by mentioning a property, as if it belongs to the respondent herein. But the petitioner has not proved the same, by way of producing any documents.

6.Now, when the petitioner has filed a miscellaneous petition praying to file an amendment petition in the Execution Petition, with an alternative prayer of arrest, considering the case of the petitioner, I am inclined to pass the following order:-

"This Civil Revision Petition is dismissed and the alternative relief sought for by the petitioner is allowed. The petitioner is directed to file a fresh Petition within a period of two weeks from the date of receipt of a copy of this order with an alternative prayer to arrest of the respondent / the judgment debtor. On such filing of the petition, the execution Court is directed to consider and dispose of the same within a period of four weeks thereafter."

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

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1. The Sub Court, Pudukkottai.



2. The Record Keeper, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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+1cc to Mr.S.Muthuvel, Advocate Sr.No.68861

TA

VB/SKN/RSK/SAR3/16.07.2018/3P/5C

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