



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WEB COPY

C.R.P. (NPD) (MD) No.1022 of 2017

and

C.M.P. (MD) No.4580 of 2017

1.Marimuthu, S/o.Govinda Konar

2.Anthonisamy, S/o.Ulaganathan

... Petitioners

Vs.

Murugesan, S/o.Seeni

... Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code seeking to call for the records relating to fair and decretal order dated 17.04.2017, passed in E.P.No.81 of 2013 in O.S.No.38 of 2010, by the learned Subordinate Judge, Devakottai and set aside the same and allow the present Civil Revision Petition.

For Petitioners : Mr.J.Anandkumar

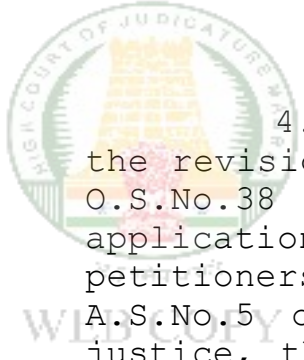
For Respondent : Mr.C.Jeya Prakash

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order dated 17.04.2017, passed in E.P.No.81 of 2013 in O.S.No.38 of 2010, by the learned Subordinate Judge, Devakottai.

2.The revision petitioners are the defendants and the respondent is the plaintiff in O.S.No.38 of 2010 on the file of the Subordinate Court, Devakottai. The respondent has filed the said suit for recovery of money. The Court below has decreed the suit in favour of the respondent/plaintiff. Hence, the respondent has filed E.P.No.81 of 2013 before the Subordinate Court, Devakottai, seeking to execute the decree dated 01.04.2013. Aggrieved over the judgment and decree dated 01.04.2013, made in O.S.No.38 of 2010, the revision petitioners have filed A.S.No.5 of 2016 before the District Court, Sivagangai. The said appeal suit was dismissed for default on 22.12.2016, due to non-appearance of the revision petitioners. Hence, the revision petitioners have filed an application in I.A.No.5 of 2017 seeking to set aside the judgment and decree, dated 22.12.2016, made in A.S.No.5 of 2016 and the same is pending. During the pendency of the said application, the learned Subordinate Judge, Devakottai, vide order dated 17.04.2017, in E.P.No.81 of 2013 in O.S.No.38 of 2010 ordering attachment of salary. Against the said order, the revision petitioners have come out with the present Civil Revision Petition.

3.Heard the learned counsel appearing for the revision petitioners and the learned counsel for the respondent and also perused the material documents available on record.



4. Admittedly, a first appeal in A.S.No.5 of 2016 filed by the revision petitioners against the judgment and decree passed in O.S.No.38 of 2010 was dismissed for default on 22.12.2016 and an application in I.A.No.5 of 2017, which was filed by the revision petitioners for setting aside the judgment and decree passed in A.S.No.5 of 2016, is pending. Therefore, in the interest of justice, this Civil Revision Petition is allowed and the fair and decretal order dated 17.04.2017, passed in E.P.No.81 of 2013 in O.S.No.38 of 2010, by the learned Subordinate Judge, Devakottai, is set aside on condition that the revision petitioners shall deposit a sum of Rs.1,50,000/- to the credit of A.S.No.5 of 2016 on the file of the District Court, Sivagangai, within a period of two weeks from the date of receipt of a copy of this order. No costs. The learned District Judge, Sivagangai, is directed to pass appropriate orders in I.A.No.5 of 2017 on merits and in accordance with law, within a period of three weeks thereafter. After passing orders in I.A.No.5 of 2017, the learned District Judge, Sivagangai, is also directed to pass appropriate orders on merits and in accordance with law in A.S.No.5 of 2016, within a period of eight weeks.

Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The District Judge,
Sivagangai.
2. The Subordinate Judge,
Devakottai.
3. The Record Keeper, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Muthu Kuamr, Advocate Sr.No.72199

+1cc to Mr.J.Anandkumar, Advocate Sr.No.72074

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