



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (NPD) (MD) No.1855 of 2018

K.Subramanian

... Petitioner

Vs.

I.Prakash

... Respondent

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order passed in E.P No.3 of 2016 in O.S No.117 of 2014 on the file of the I Additional District Judge, Madurai dated 10.02.2017.

For Petitioner : Mr.S.Vijayakumar

For Respondent : No appearance

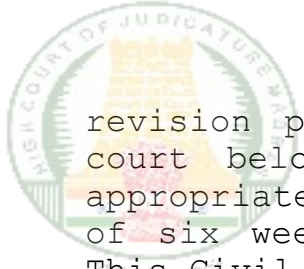
ORDER

The petitioner filed O.S No.117 of 2014 on the file of the I Additional District Judge, Madurai seeking recovery of certain sum of money. The suit was decreed on 28.04.2016. The decree was put to execution by filing E.P No.3 of 2016. The revision petitioner filed a calculation memo on 12.01.2017 indicating that the respondent has to pay a sum of Rs.14,00,172/- which represents his liability as on 18.01.2017.

2.But, the court below by order dated 10.02.2017 directed the judgment debtor to deposit a sum of Rs.2,30,116/- into court on or before 13.03.2017. The judgment debtor complied with the direction. Thereupon, E.P got terminated on 21.03.2017. The decree holder filed this Civil Revision Petition on 01.06.2017 questioning the order dated 10.02.2017. It is obvious that the decree holder is aggrieved by the termination of his E.P. But then, he should have been a little more alert and filed this civil revision petition immediately thereafter and before the termination of E.P.

3.Be that as it may, this Court has to render substantial justice. The grievance of the revision petitioner is that the cost amount of Rs.19,636/- and the interest liability to the tune of Rs.13,125/- have not been paid. According to the decree holder, the judgment debtor has to pay a sum of Rs.32,761/- more. The learned counsel for the revision petitioner undertakes that this amount represents the final figure and he would not make any claim for the period upto date from 13.03.2017 onwards. This undertaking is placed on record.

4.In this view of the matter, the order impugned in this civil revision petition is set aside. The E.P will be re-opened. The



revision petitioner shall file a fresh calculation memo and the court below after issuing notice to the respondent shall pass appropriate orders afresh in accordance with law within a period of six weeks from the date of receipt of a copy of this order. This Civil Revision Petition is allowed. No costs.

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Sd/
Assistant Registrar(AD-I)

/True copy/

Sub Assistant Registrar(CS-III)

To

The Additional District Judge, Madurai.

+1cc to Mr.S.Vijayakumar Advocate, SR.No.90629

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