

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.4848 of 2013

Murugan @ Murahari

... Petitioner

v.

Nandan

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decretal order dated 27.11.2013 in E.P.No.62 of 2012 in O.S.No.133 of 2007 on the file of the District Munsif Corut at Dharmapuri.

For Petitioners : Mr.P.Valliappan

For Respondent : Mr.M.Selvam

ORDER

Challenging the order passed in E.P.No.62 of 2012 in O.S.No.133 of 2007 on the file of the District Munsif Court, Dharmapuri, the Judgment debtor has filed the above Civil Revision Petition.

2. The respondent-decree holder filed the suit in O.S.No.133 of 2007 for recovery of money and the said suit was decreed in his favour on 28.08.2008.

3. Since the Judgment debtor failed to pay the decree amount, the respondent-decree holder filed an Execution Petition in E.P.No.62 of 2012 for arrest. In the affidavit filed in support of the Execution Petition, the decree holder has stated that the Judgment debtor has got sufficient means and he is having a house worth about Rs.6,00,000/- and also he is earning Rs.20,000/- per month. Further, he has stated that the Judgment debtor is having jewelry worth about Rs.2,00,000/- and cash of Rs.1,00,000/- in hand.

4. In the counter filed by the Judgment debtor, he has stated that he has no sufficient means to pay the decree amount and that he is willing to pay in monthly installments of Rs.1000/- each.

5. The Executing Court took into consideration the request made by the Judgment debtor to pay the decree amount in monthly installments of Rs.1,000/- each and held that the Judgment debtor has got means to pay the decree amount.

6. Since the Judgment debtor himself has stated that he is willing to pay the decree amount in monthly installment of Rs.1,000/- each, the order passed by the Executing Court, ordering arrest, is proper.

7. In these circumstances, we do not find any error or irregularity in the order passed by the Executing Court. However, I am of the view that in order to avoid arrest, the petitioner-Judgment debtor can be directed to pay the decree amount in 12 equal monthly installments. Since the decree passed by the Trial Court in O.S.No.133 of 2007 has become final and that the Judgment debtor is liable to pay the decree amount to the respondent-decree holder, I permit the

petitioner-Judgment debtor to pay the decree amount together with accrued interest in 12 equal monthly installments. In the event of the petitioner-Judgment committing any default in paying the monthly installments, the respondent-decree holder is at liberty to execute the order of arrest made in E.P.No.62 of 2012.

With the above observations, the Civil Revision Petition is disposed of. No costs. Consequently the connected Miscellaneous Petition is closed.

18.09.2019

Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The District Munsif Court,
Dharmapuri.

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M.DURAIWAMY, J.

Rj

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