

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2019

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN****C.R.P.(NPD)No.2850 of 2018**
and C.M.P.No.16772 of 2018

Managing Director,
M/s. Nallam Textiles,
Rep. By Mathiazhagan,
No.86, Saminathapuram,
First Street, Anuparpalayam,
Tirupur District,
Tirupur.

...Petitioner

Vs

Lakshmi

...Respondent

Prayer: The Civil Miscellaneous Petition filed under Article 227 of the Constitution of India, against the execution petition in E.P.No.1 of 2017 in O.S.No.344 of 1997, on the file of the Subordinate Judge, Kangayam and submits the same is erroneous, illegal and liable to be struck off.

For Petitioner : Mr.S.Thangavel

For Respondent : M/s.Lakshmi
Party in person**JUDGMENT**

This petition had been filed by the judgment debtor in E.P.No.1 of 2017, which is pending on the file of the Sub Court, Kangayam. The only ground raised

in the Civil Revision Petition is that the Execution Petition is not maintainable, since, according to the revision petitioner, the decree was obtained against the company and the property of the director was sought to be attached. However, it had been pointed out by this Court, that the suit was actually filed only against the Managing Director of the company and the properties of the Managing Director of the company, are now sought to be attached, pursuant to the decree passed in favour of the respondent herein. It has traversed during arguments that the respondent herein had also obtained order of attachment of the suit properties in the Sub Court, Dharapuram. The Execution petition had been thereafter transferred to the Sub Court, Kangeyam. The revision petitioner herein had filed an appeal against the order of attachment. That application was dismissed by the Sub Court, Dharapuram. As against that order an appeal had been filed in C.M.A.No.19 of 2017 before the District Court, Tiruppur, which had made over the appeal to the III Additional District Court, Dharapuram. The next hearing date is 06.02.2019.

2. The respondent who is appearing as party in person disclaimed knowledge about the filing of the appeal and further stated that she had not received notice of the appeal. The respondent is granted permission to participate in the judicial proceedings in C.M.A.No.19 of 2017 and if by any chance or for any reason she had been set ex-parte in the said appeal

proceedings, she is at liberty to file appropriate application and the learned District Judge may decide the same on merits.

3. The learned counsel for the revision petitioner has made following endorsement:

" The Civil Revision Petition may be dismissed as withdrawn with liberty to raise all the grounds available to the petitioner in the pending in Civil Miscellaneous Appeal No.19 of 2017 on the file of the III Additional District Court, Dharapuram and file application under Section 47 of C.P.C., in the Execution Petition in E.P.No.1 of 2017 in O.S.No.344 of 1997 on the file of the Sub Court, Kangeyam raising all the points raised in the Civil Revision Petition"

4. In view of the said endorsement, since two parallel proceedings have been initiated by the petitioner and one of which is pending before the III Additional District Munsif Court, Dharapuram, and the other is before this Court, the present Civil Revision Petition would not survive. The petitioner is at liberty to raise all issues before the III Additional District Court, Dharapuram, in C.M.A.No.19 of 2017. The respondent herein is also permitted to raise all issues before the said Court.

5. In view of all these facts, the Civil Revision Petition is dismissed, however, without costs. The learned III Additional District Munsif Judge,

Dharapuram is directed to pass final orders in C.M.A.No.19 of 2017, on or before 28.02.2019. The hearing shall be conducted on a day to day basis and even if adjournments are sought, not more than two working days can be granted in between two adjournments. No two adjournments can be granted for the same reason. In the endorsement made, the learned counsel have also reserved right to file application under Section 47 CPC. Even if such application is filed, the concerned Court is directed to dispose of the said application within a period of three months and also conduct hearing on a day to day basis. The Sub-Court, Kangayam, where the E.P is pending is decided to proceed further in accordance with law without any delay, and must at any rate pass final orders on or before 31.03.2019.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently. Connected miscellaneous petition is closed.

31.01.2019

Index:Yes/No
Internet:Yes/No
ssi/dua

Note: The Registry is directed to issue order copy to the Sub-Court, Dharapuram. The Sub-Court, Kangayam. The III Additional District Court, Dharapuram. The petitioner, the respondent, the advocate of party in person.

To

- 1.The Prinicipal District Judge,Tiruvannamalai.
- 2.The Principal District Munsif, Tiruvannamalai.
- 3.The Sub-Court, Dharapuram.
- 4.The Sub-Court, Kangeyam.
- 5.The III Additional District Court, Dharapuram.
6. The petitioner, the respondent, the advocate of party in person.
- 7.The Section Officer, VR Section, Madras High Court.



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C.V.KARTHIKEYAN,J.,

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