

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (NPD) No. 3202 of 2019

T. Vasudevan ... Petitioner

Vs.

N.K.S. Thayappan ... Respondent

Prayer : Petition filed under Section 115 of the Civil Procedure Code against the docket order passed dated 28.01.2019 passed in E.P. No. 126 of 2014 in O.S. No. 35 of 2007 on the file of the Additional Subordinate Judge I, Cuddalore.

For Petitioner : Mr. R. Gururaj

ORDER

This Civil Revision Petition has been filed against the order passed in E.P. No. 126 of 2014 in O.S. No. 35 of 2007 by the learned Additional Subordinate Judge I, Cuddalore, by order dated 28.01.2019.

2. The revision petitioner is the plaintiff, who had succeeded in the suit and got money decree in O.S. No. 35 of 2007 and in order to execute the same, he filed a petition in E.P. No. 126 of 2014 before the Execution Court, where he sought for the prayer of civil arrest of the respondent / judgment debtor. Accordingly, civil arrest was ordered and judgment debtor was produced before the Court on 28.01.2019. On that day, the judgment debtor did not come forward to make any payment and though he was hale and healthy despite the same, he had not come forward to make the payment towards execution of the decree and the learned Judge ordered that the judgment debtor be sent to Civil Prison for a period of two months, and the E.P. to be closed, as against which, the present revision has been filed by the decree holder.

3. The prayer sought in the E.P., is to arrest the judgment debtor, if he does not come forward to pay the claim in the Execution Petition and the said prayer has been accomplished and necessarily E.P., has been closed, therefore, the petitioner cannot have any grievances.

4. However, the said dismissal of the E.P., would not restrain the petitioner / decree holder, to pursue the matter further by filing a fresh E.P., for recovery of the sum claimed in the E.P. from the judgment debtor in the manner known to law provided under Order 21 of the Civil Procedure Code and therefore, the present revision which has been filed against the order passed on 28.01.2019 by the Execution Court, need not be interfered with and in that view of the matter, this Civil Revision is dismissed. No costs.

26.09.2019

Index: Yes / No
Speaking order / Non speaking order

vji

To

The learned Additional Subordinate Judge I,
Cuddalore.

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R.SURESH KUMAR, J.

vji



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