

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.4739 of 2014 and
M.P.No. 1 of 2014

1. S. Selvaraj (died)
2. P.Annadurai
3. T.Kalaichelvan
4. R.Rajendran
5. G.Asokan
6. R.S.Vedaraman
7. K.Kumar

Petitioners

Vs

1. The Foreman
The Jayapriya Chit Funds (P) Ltd
Branch Office
Neyveli Township

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 25.07.2012 passed in E.P.No.216 of 2011 in A.R.847 of 2010, on the file of Subordinate Court, Neyveli.

For Petitioners : Mr.D.Baskar

For Respondent : Mr.S.Lakshmipathy for
Mr.C.A.Anburaja

ORDER

This Civil Revision Petition has been preferred to set aside the docket order dated 25.07.2012 passed in E.P.No.216 of 2011 in A.R.847 of 2010, by the learned Subordinate Judge, Neyveli.

2. The respondents in EP No.216 of 2011 in AR No.847 of 2010 on the file of Subordinate Court, Neyveli are the petitioners herein. All the petitioners have preferred this Civil Revision Petition challenging the Docket order dated 25.07.2012. During the pendency of the Civil Revision Proceedings, on 30.09.2019, the learned counsel appearing for the petitioner filed a memo stating that the 1st petitioner died on 22.11.2016. After recording the memo filed by the petitioner, this court has given sufficient opportunity to the counsel who is on record for the 1st petitioner to implead the legal representatives of the 1st petitioner. Even after giving sufficient opportunity, no action has been taken to implead the legal representatives of the deceased 1st petitioner. Hence, in view of the above, this Civil Revision Petition as against the 1st petitioner is dismissed as abated.

3. In respect to others, both side arguments heard.

4. After passing decree in AR No.847 of 2010, the respondent herein initiated E.P.No.216 of 2011 made in the said proceedings. The petitioners herein have promptly paid the decree amount without any default. However, by an order dated 08.06.2012, the learned Subordinate Judge, Neyveli has passed an order for attachment of the salary of petitioners by 25.07.2012, which is against the principles of law.

5. Now, on going through the docket order passed by the learned Subordinate Judge, Neyveli, it is crystal clear that only for the reason that the petitioners did not paid any amount as on 08.06.2012, the learned trial Judge has passed the order of attachment of the petitioners' salary. In fact, before passing the impugned order, the petitioners were paying the portion of decree amount without any default. However, since the execution proceedings is posted for further payment, it is the duty of the petitioners to pay some amount towards the realization of the decree amount. Only because of the reason that the petitioner has not paid the said amount on that date, order of attachment was passed.

6. In view of the above discussions, I do not find any material irregularity found in the impugned order passed by the learned Subordinate Judge, Neyveli. Hence, the Civil Revision is not having any merits and the same is dismissed as against the petitioners 2 to 7. No costs. Consequently, connected Miscellaneous petition is closed.

15.11.2019

vrn

To

The Subordinate Court, Neyveli.

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R.PONGIAPPAN, J.,

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