



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 12.12.2019

C o r a m

The HONOURABLE MR.JUSTICE T.RAJA

CRP. (MD) .No.1116 of 2012
and
M.P. (MD) .No.1 of 2012

Palanichamy ... Petitioner/Respondent/Plaintiff

Vs.

1.Samiyappan
2.Ganesan ... Respondents/PetitionerS/Defendants

Prayer: Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code, challenging the order dated 02.12.2011, passed by the Principal Subordinate Judge, Karur in E.P.No.60 of 2011 in O.S.No.257 of 2002.

For Petitioner : Mr.K.Balasubramani
For respondents : Mr.A.Ganapathy Raman

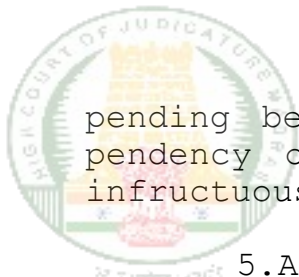
ORDER

This Civil Revision Petition has been filed questioning the correctness of the fair and decretal order dated 02.12.2011, passed in E.P.No.60 of 2011 in O.S.No.257 of 2002.

2.The suit in O.S.No.257 of 2002 has been filed for recovery of Rs.4,56,300/- against the defendants/respondents herein.

3.Learned counsel appearing for the petitioner submits that the money suit was decreed on 13.10.2005. As against that, the defendants filed a first appeal and that was subsequently allowed on 10.12.2010 with a direction to the plaintiff to pay costs to the defendants throughout. Since the plaintiff has failed to pay costs to the defendants, the defendants filed E.P.No.60 of 2014. The said E.P was allowed by giving an order to imprison the plaintiff. Aggrieved over the same, the plaintiff is before this Court.

4.The grievance of the petitioner/plaintiff is that without even mentioning cost of the amount, the respondents/defendants cannot straight away move E.P.No.60/2014 for arrest of the plaintiff. However, the plaintiff has also filed S.A.(MD). No.269/2014 before this Court with some delay. A delay application has been filed and the second appeal has been numbered and it is



pending before this Court. In any event, according to him, the pendency of the second appeal makes the Civil Revision Petition infructuous.

5.At this stage, the learned counsel appearing for the respondents/defendants pleaded that either the Civil Revision Petition can be tagged along with second appeal or a copy of the full set of second appeal papers may be furnished to the respondents.

6.The request made by the learned counsel appearing for the respondents/defendants cannot be accepted for the reason that they have also entered appearance in the above mentioned second appeal. Once the petitioner has filed the second appeal against the judgment in A.S.No.72/2006 dated 10.12.2010, and the same is pending now, the E.P.No.60/2011 becomes infructuous.

7.Accordingly, by setting aside the impugned order dated 02.12.2011, passed by the learned Principal Subordinate Judge, Karur in E.P.No.60 of 2011 in O.S.No.257 of 2002, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vs

To

The Principal Subordinate Judge,
Karur.

+1 CC to Mr.K.BALASUBRAMANI, Advocate (SR-104728[F] dated 12/12/2019)

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MK (07.01.2020) 2P 3C