



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P (NPD) (MD)No.1814 of 2011

and

M.P. (MD)No.1 of 2011

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R.Indirani : Revision Petitioner/Respondent

.. Vs ..

K.Masanamuthu : Respondents/Petitioner

PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code, praying to set aside the order dated 15.03.2011 passed in I.A.No.313 of 2011 in I.P.No.23 of 2011 on the file of the II Additional Subordinate Judge, Thiruchirappalli.

For Petitioner : Mrs.S.Vijayashanthi
For Respondents : Mr.N.S.Ramakrishnadass

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ORDER

This Civil Revision Petition is directed against the order passed by the learned II Additional Subordinate Judge, Tiruchirappalli in I.A.No.313 of 2011 in I.P.No.23 of 2011.

2.The revision petitioner is one of the creditor of the respondent. It is stated that the revision petitioner has obtained a decree in O.S.No.119 of 2008 on the file of the Principal Sub Court, Madurai for recovery of money and that in execution of the money decree, got an order of arrest of the respondent/judgment debtor in civil prison till the realiasation of the decree amount. When the respondent/judgment debtor was in civil prison, he filed a petition in I.P.No.23 of 2011 showing the revision petitioner as respondent, for declaration that he is an insolvent. It was thereafter the judgment debtor filed a petition under Section 23 of the Provincial Insolvency Act, 1920 for his release from the civil prison. Section 23 of the Provincial Insolvency Act, 1920 reads as follows:

"23. Release of debtor.-

<https://hcservices.ecourts.gov.in/hcservices> At the time of making an order admitting the



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petition or at any subsequent time before adjudication, the Court may, if the debtor is under arrest or imprisonment in execution of the decree of any Court for the payment of money, order his release on such terms as to security as may be reasonable and necessary.

(2) The Court may at any time order any person who has been released under this section to be re-arrested and re-committed to the custody from which he was released.

(3) At the time of making any order under this section, the Court shall record in writing its reasons therefor."

3.The respondent/judgment debtor is entitled to file a petition under Section 23 of the Act even before he is adjudged or declared as insolvent in the insolvency petition filed by him. The lower Court while ordering release of the respondent has also put some conditions for the release of the respondent. The order passed by the Insolvency Court is perfectly in order and this Court found no reason to interfere with the order of the Insolvency Court.

4.As a result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

The II Additional Subordinate Judge,
Thiruchirappalli.

+1 CC to M/s.N,S. RAMA KRISHNA DASS, Advocate (SR-82733[F] dated 21/08/2019)

C.R.P(NPD) (MD)No.1814 of 2011
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