



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.P. (MD) No.3119 of 2019

in

CRP (MD) No.SR2566 of 2019

and

C.R.P. (MD) No.SR2566 of 2019

Radhakrishnan

... Petitioner/Petitioner/Petitioner

vs.

A.S.S.Sethurama Subramanian

... Respondent/Respondent/Respondent

PRAYER in C.M.P. (MD) No.3119 of 2019:- Civil Miscellaneous Petition filed under Section 151 of the Code of Civil Procedure, to modify the condition imposed upon the petitioner by order dated 28.02.2019 in C.M.P.(MD) No.595 of 2019 in C.R.P.(MD) No.SR2566 of 2019 to deposit 50% of the decree amount to the credit of E.P.No.1 of 2016 in O.S.No.218 of 2010 on the file of the Sub Court, Srivilliputhur.

PRAYER in C.R.P. (MD) No.SR2566 of 2019:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 06.08.2018 passed in E.P.No.1 of 2016 in O.S.No.218 of 2010 on the file the Sub Court, Srivilliputtur.

For Petitioner : Mr.K.Sudalaiyandi
For Respondent : Mr.B.Rajesh Saravanan

ORDER

The Civil Miscellaneous Petition has been filed to modify the conditions imposed upon the petitioner by order dated 28.02.2019 in C.M.P.(MD) No.595 of 2019 in C.R.P.(MD) No.SR2566 of 2019.

2.The petitioner contended that he is no means to satisfy the money decree passed by the trial Court and after knowing the same, the respondent filed an Execution Petition against the petitioner seeking civil arrest. Hence, the petitioner filed the present petition for the relief as stated above.

3.Heard the learned counsel on either side.

4.From the arguments, it is seen that the petitioner has some <https://hsrpsc.court.gov.in/hsrpsc/> that the same was also attached by the Deputy Registrar, Co-operative Society, Srivilliputtur. Further, the petitioner states that even in the counter filed by the petitioner



regarding the claim of title made by Urban Bank, purposely, the respondent omitted to proceed against the property under attachment for realizing the decretal dues. Hence, the petitioner sought for dismissal of the said petition.

5. Now, the petitioner contended that the respondent is fully aware of the property possessed by the petitioner, he ought to have proceeded against the property, but the said E.P., was filed only for arrest and recovery.

6. On perusal of records and on hearing the learned counsel on either side, it is observed that the petitioner has means and that is also disputed by him as well as the respondent. Hence, since the said E.P., is proceeding before the Executing Court, the condition already passed by this Court is need not be modified and further, the petitioner can approach the Executing Court to prove the same and get the decree amount.

7. In view of the above, the condition imposed upon the petitioner by order dated 28.02.2019 in C.M.P.(MD) No.595 of 2019 in C.R.P.(MD) No.SR2566 of 2019 is hereby confirmed and there is no merit in this Civil Revision Petition. The Civil Miscellaneous Petition is dismissed accordingly. No costs. Consequently, connected C.R.P.(MD) No.SR2566 of 2019 is also rejected at the SR stage itself.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

TO
The Subordinate Judge, Srivilliputhur.

Copy to:
The Sub Assistant Registrar,
Main (AE) Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.P. (MD) No.3119 of 2019

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