



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (NPD) (MD) No.1931 of 2013

and

M.P(MD) No.1 of 2013

Sanjeevi

... Petitioner

Vs.

Sri Chakra Investments Leasings
Rep. by its Administrative Shareholder,
S.Ramachandran,
Matha Building, Main Road,
Dindigul Town.

... Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, against the order passed on 09.10.2013 in E.A.No.260 of 2013 in E.P.No.55 of 2008 in O.S.No.96 of 1999 on the file of the Principal Subordinate Court, Dindigul.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.A.Sivaji

ORDER

This Civil Revision Petition is filed by judgment debtor challenging the order passed by the learned Principal Subordinate Judge, Dindigul, for recalling the warrant of arrest issued to the judgment debtor on his paying a sum of Rs.5,000/- towards costs.

2.The facts in brief which are necessary for disposing of the civil revision petition are as follows:-

The respondent/deGREE holder had obtained the decree for recovery of a sum of Rs.34,770/- in O.S.No.96 of 1999 on the file of the Principal Subordinate Court, Dindigul. The said decree was sought to be executed by the decree holder in E.P.No.55 of 2008 for civil arrest of the judgment debtor. As and when the execution proceedings was being listed before the Court, the judgment debtor was in the habit of making some payment towards the decree amount, however when the matter was called on 30.08.2013, he failed to make the payment and consequently, the Court below had directed his arrest. The judgment debtor immediately came forward with the impugned petition in E.A.No.260 of 2013 to recall the warrant of arrest. By his order, dated 09.10.2013, the learned Principal Subordinate Judge was pleased to recall the warrant of arrest subject to the condition that the judgment debtor pays a cost of Rs.5,000/- on or before 30.10.2013. This order is the subject matter of challenge in the present revision petition.



3. Heard the learned counsel appearing on either side and perused the papers.

4. From the records it is seen that the decree passed in O.S.No.96 of 1999 has not been challenged by the judgment debtor and further the executing Court has shown sufficient indulgence to him by permitting him to repay the amount as and when the matter was listed for hearing, the revision petitioner has failed to make the payment on one of the said date as agreed. Therefore, a warrant of arrest has been issued and the Court below has also recalled the warrant however imposing a condition that the cost of Rs.5,000/- should be paid. I do not find any infirmity in this order, since the petitioner has not been made any attempt to clear the decree amount which is merely a sum of Rs.34,770/- and decreed way back on 13.01.2004.

5. In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

cp

To

The Principal Subordinate Court,
Dindigul.

+1 CC to Mr.A.SIVAJI, Advocate (SR-98156[F] dated 14/11/2019)

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-98210[F] dated 14/11/2019)

C.R.P. (NPD) (MD) No.1931 of 2013

and

M.P (MD) No.1 of 2013

13.11.2019

VB (05.12.2019) 2P 4C