



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

CORAM :

THE HON'BLE MR. JUSTICE B. PUGALENDHI

C.R.P. (NPD) No.2188 of 2015,
M.P.Nos.1 & 2 of 2015 and
C.M.P.No.10019 of 2019

S.Shanthi

... Revision Petitioner

Vs.

1.V.M.Saineesa

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

3.The Chairman,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the X Assistant City Civil Court, Chennai, dated 28.04.2015, in E.A.No.242 of 2015 in E.P.No.3480 of 2014 in O.S.No.2612 of 2003.

For Petitioner : Mr.R.Manickavel

For R1 : Mr.Ashok Rajaraman

For R2 & R3 : No appearance

O R D E R

This Civil Revision Petition has been filed by the 1st defendant/ Judgment Debtor in O.S.No.2612 of 2003 on the file of the III Assistant City Civil Court, Chennai, as against the order passed by the X Assistant Judge, City Civil Court, Chennai, in E.A.No.242 of 2015 in E.P.No.3480 of 2014 in O.S.No.2612 of 2003.

2.The 1st respondent/Decree Holder filed a suit before the III Assistant City Civil Court, Chennai, in O.S.No.2612 of 2003, for damages, and for mandatory and permanent injunctions. The suit was partly decreed in favour of the 1st



respondent/Decree Holder in respect of mandatory and permanent injunctions alone, by judgment and decree dated 25.07.2007, as against which, an appeal was filed by the petitioner/Judgment Debtor before the V Additional City Civil Court, Chennai, in A.S.No.68 of 2008, which was allowed and the suit was dismissed. Against the dismissal of the suit, the 1st respondent/Decree Holder filed a Second Appeal before this Court in S.A.No.286 of 2011 and the Second Appeal was partly allowed, as against which, the petitioner/Judgment Debtor has filed a Special Leave Petition before the Hon'ble Supreme Court.

3.While so, the matter was posted before the Execution Court in E.P.No.3480 of 2014, and on receipt of notice, the Judgment Debtors entered appearance on 15.10.2014, and thereafter, it was adjourned to 13.11.2014, 25.11.2014 and then, to 02.12.2014. On 02.12.2014, a memo was filed on behalf of the petitioner/Judgment Debtor, stating that, as against the order passed in S.A.No.286 of 2011, the petitioner/Judgment Debtor has filed a Special Leave Petition before the Hon'ble Supreme Court in S.L.P.No.30569 of 2014 and the same is pending before the Hon'ble Supreme Court, and some more time was sought. The matter was adjourned to 22.12.2014 for production of stay order, if any, of the Hon'ble Supreme Court. On 22.12.2014, since no such orders were produced, the Execution Court set the petitioner/Judgment Debtor ex parte in the Execution Petition. Thereafter, the petitioner/Judgment Debtor filed E.A.No.242 of 2015 to set aside the ex parte order passed against her. The Execution Court disbelieved the memo that was filed by the petitioner/Judgment Debtor and observed that, by projecting a fake S.L.P. number, the petitioner/Judgment Debtor has attempted to gain some more time in the Execution proceedings and ultimately, dismissed E.A.No.242 of 2015 by order dated 28.04.2015, aggrieved over which, the petitioner/Judgment Debtor has filed the present Civil Revision Petition.

4.The learned counsel for the 1st respondent/Decree Holder pointed out that, S.L.P.No.30569 of 2014 is pertaining to some other case and is not relevant to the case on hand, however, by projecting a wrong or fake number, an attempt was made by the petitioner/Judgment Debtor to gain some more time before the Execution Court.

5.Per contra, the learned counsel for the petitioner/Judgment Debtor referred to the cause list of the Hon'ble Supreme Court dated 15.12.2014, wherein, the Special Leave Petition filed by the petitioner/Judgment Debtor, viz., S.Shanthi v. V.M.Saineesa and others in S.L.P.(CC) No.20580 of 2014 was listed for hearing, along with applications to condone delay in filing and refiling the Special Leave Petition. However, a wrong number has been mentioned in the memo filed on behalf of the petitioner/Judgment Debtor and therefore, the Court below was also carried over by the same



and has observed that the petitioner/Judgment Debtor attempted to gain some more time by producing a fake S.L.P. number.

6. It is also represented by the learned counsel for the petitioner/Judgment Debtor that they have also filed a counter affidavit before the Execution Court along with the petition on 07.01.2015 and they have also removed the pipelines, which is the subject matter of the suit. However, the said submission of the learned counsel for the petitioner/Judgment Debtor was objected by the learned counsel for the 1st respondent/Decree Holder.

7. The trial Court has arrived at the conclusion that a fake S.L.P. number has been furnished to the Court by the petitioner/Judgment Debtor to gain more time, based on the memo filed with a wrong S.L.P. number, without taking into account the cause list of the Hon'ble Supreme Court, which was produced before the Execution Court. However, on a perusal of the cause list of the Hon'ble Supreme Court, it appears that, efforts have been taken by the petitioner/Judgment Debtor, by filing a Special Leave Petition before the Hon'ble Supreme Court.

8. In view of the pendency of this Civil Revision Petition before this Court, the matter is pending for the past six years. It is also stated that, counter affidavit has already been filed before the Execution Court. Therefore, in order to give a quietus to the issue on hand, without going into the merits of the matter, the order in E.A.No.242 of 2015 dated 28.04.2015 is set aside and the Court below/Execution Court is directed to dispose the Execution Petition in E.P.No.3480 of 2014, within a period of three weeks from the date of receipt of a copy of this order and shall ensure that the decree is executed in full spirit.

9. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

To

1. The V Additional Judge,
City Civil Court,
Chennai.

2. The III Assistant Judge,
City Civil Court,
Chennai.



3.The X Assistant Judge,
City Civil Court,
Chennai.

4.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

5.The Chairman,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

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