

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.3732 of 2013

and

MP.No.1 of 2013

S.Peppin

... Petitioner/Defendant

Vs.

Damodaran (Deceased)

1.D.Lakshmi

2.D.Saravanan

3.D.Mohanalakshmi

4.D.Vivekanandan

...Respondent/
Plaintiffs 2 to 5

PRAYER: This Civil Revision Petition has been filed under Section 115 of CPC to set aside the order passed in E.P.No.831 of 2012 in O.S.No.888 of 2002, on the file of the learned IX Assistant Judge, City Civil Court, Chennai, dated 18.06.2013.

For Petitioner : Mr.C.K.M.Appaji

For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed by the revision petitioner/judgment debtor against the order of attachment of salary

passed by the learned IX Assistant Judge, City Civil Court, Chennai, dated 18.06.2013, in E.P.No.831 of 2012 in O.S.No.888 of 2002.

2 The respondents herein are the legal representatives of the decree holder/first plaintiff.

3 The decree holder viz., M.Damodaran has filed a suit in O.S.No.888 of 2002 for recovery of money due viz., Rs.1,03,200/- along with interest and the said suit was decreed and hence, for execution of decree, the revision petitioners/plaintiffs have filed an Execution Petition in EP.No. 831 of 2012, in which, the judgment debtor has filed a counter affidavit. After considering the counter, attachment of salary was ordered. Subsequently, EP was closed thereafter, the decree holder died. The present EP was filed by the legal representatives of the decree holder, in pursuant to the decree dated 07.11.2003, passed against the judgment debtor. As per the order dated 03.01.2006, this Court has passed attachment order of salary and service of notice to the Garnishee of the judgment debtor. The Garnishee called absent and set ex-parte and attachment was made absolute and the said EP was closed as per the order dated 28.03.2006. On the above direction, the garnishee of the judgment debtor deposited a sum of Rs.6,947/- into this Court

and the same is lying in the Court deposit. Then, the Decree holder has filed EP on the present decree, dated 01.09.2006 for the relief of attachment of salary under Order 21 Rule 48 of CPC. Against the decree the judgment debtor has failed to file any appeal and set aside the decree.

4 Taking into consideration the decree in force and the same was executable, judgment debtor/revision petitioner in the absence of any such plea by the Appellate Forum, after giving deduction of the earlier amount deposited by the garnishee, employer of the judgment debtor for the balance of the amount, attachment of salary was granted in EP.

5 On a perusal of the order it is seen that several contentions have been raised but nothing has been restricted or demonstrated before the Execution Court and hence, I do not find any merit in this case and the contentions raised by the learned counsel for the petitioner are rejected and it is open to the petitioner to pay the amount.

6 In the result, the Civil Revision Petition stands dismissed on merits and the order of attachment of salary passed by

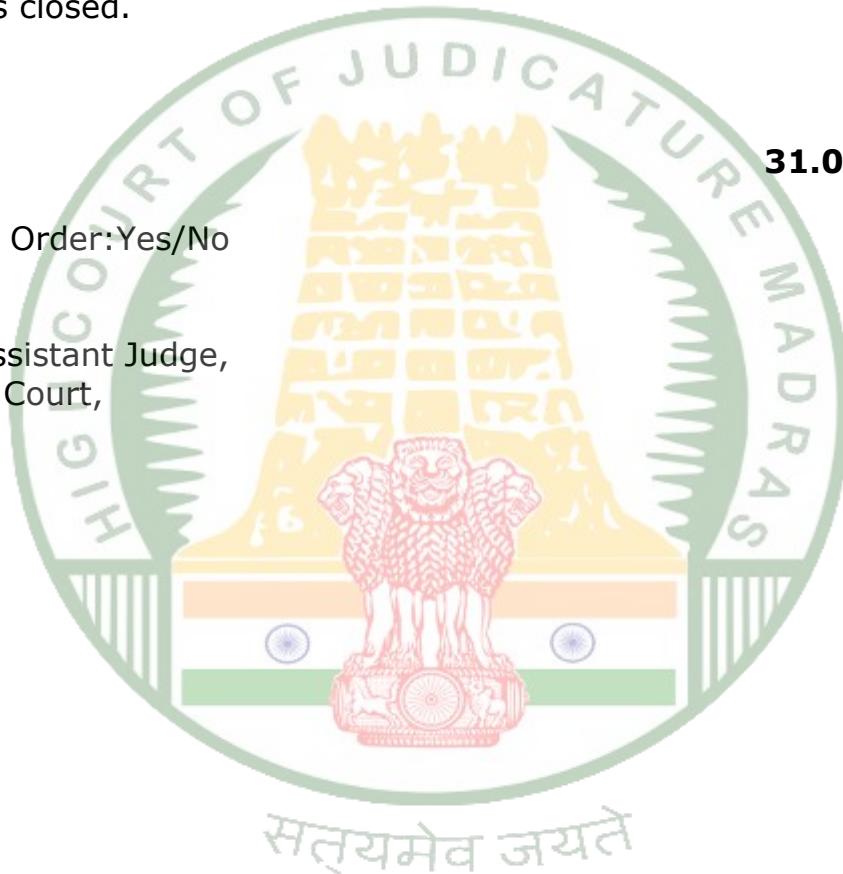
RMT.TEEKAA RAMAN., J.
dua

the learned IX Assistant Judge, City Civil Court, Chennai, dated 18.06.2013, in E.P.No.831 of 2012 in O.S.No.888 of 2002 is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

31.01.2020

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Speaking Order:Yes/No

To
The IX Assistant Judge,
City Civil Court,
Chennai.



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