

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM: THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

CRP.(NPD) No.1683 of 2018
and CMP.No.9276 of 2018

M.Suresh

... Petitioner / Petitioner /
Judgment Debtor/ Defendant

Vs.

R.Jayaraj

... Respondent / Respondent /
Decree Holder / Plaintiff

Prayer : Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the fair order and decree dated 26.02.2018 made in REA.No.173 of 2015 in REP.No.22 of 2013 in O.S.No.64 of 2012 on the file of the Subordinate Judge, Harur.

For Petitioner : Mr.G.Arul Murugan

For Respondents : Mr.J.Pradeep

ORDER

The judgment debtor who has suffered an exparte decree for payment of money, has come up with this revision, challenging the dismissal of the application in REA.No.173 of 2015 in REP.No.22 of 2013 in O.S.No.64 of 2012 on the file of the Subordinate Judge, Harur.

2. The said application in REA.No.173 of 2015 was filed by the petitioner under Section 47 of the Code of Civil Procedure, contending that the order of attachment of the property was done without following the procedure prescribed under law. It is also the contention that there is excessive execution.

3. I do not think that these grounds can form the subject matter for an application under Section 47 of CPC., Section 47 of Civil Procedure Code provides for remedy against any matter relating to execution discharge and satisfaction of the decree. If the order of attachment have been made in breach of

Order XXI Rule 54 of Code of Civil Procedure, it is open to the petitioner to come up with revision against the said order. The application under Section 47 of CPC., would not lie as it would amount to seeking review of the order of attachment. Hence, I do not see any grounds to interfere with the order of the trial Court dismissing the application on the ground that the application under Section 47 is not maintainable. Therefore, this Civil Revision Petition is dismissed confirming the order of the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Harur.

2. The Section Officer
VR Section
High Court, Madras.

+1 cc to Mr.G.Arul Murugan, Advocate Sr.No.26588

CRP.(NPD) No.1683 of 2018

pvs (co)

rr ii (08/09/2020)

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