

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.511 of 2018
and CMP No.2632 of 2018

Crishtunesan

..Petitioner

Vs

G.Rajendiran

.. Respondent

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, against the order dated 15.11.2014 in E.P. No.10 of 2013 O.S. No.103/2006 on the file of District Munsif Court, Hosur.

For Petitioner : Mr.B.Vijay

For Respondent : Mr.Arun Anbumani

ORDER

This revision is filed against an order in E.P.No.10 of 2013 which is an Execution petition for arrest of the Judgment Debtor.

2. The main contention of the learned counsel for the petitioner is that the Executing Court has not complied with the provisions of Order XXI Rules 35 and 37 of the Code of Civil Procedure. While ordering arrest of the Judgment Debtor for non payment of a decreed debt, the Executing Court is expected to examine the means evidence and record a finding that despite having necessary means to pay the decree amount the Judgment Debtor is evading such payment. In the absence of such finding, an order of arrest cannot be sustained.

3. A perusal of the order of the trial Court shows that no such attempt was made by the trial Court. Hence, the order is set aside. The Execution petition in E.P.No.10 of 2013 is remitted to the Executing Court namely the District Munsif cum Judicial Magistrate No.1, Hosur to be disposed of in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

09.10.2020

vum

Index: Yes/No

Speaking order / Non speaking order

2/3

CRP (NPD) No.511 of 2018 and
CMP No.2632 of 2018

R.SUBRAMANIAN, J.
vum

To:

The District Munsif Court, Hosur.



CRP (NPD) No.511 of 2018
and CMP No.2632 of 2018

WEB COPY

09.10.2020
(2/2)