

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.8244 of 2019

IN

E.P.No.202 of 2018

M/s.KONE ELEVATOR INDIA PVT LTD
Rep by its Manager- Legal,
Mr. U.Barath Kumar,
KRD Gee Gee Crystal,
No.89-92, Radhakrishnan Salai,
Mylapore, Chennai. ...Applicant/Decree Holder

-vs-

ST. ALFRED EDUCATION TRUST
No.22, Casa Major Road, Egmore,
Chennai-600008, Rep by its
Trustee, Mr. D.John Alfred,
Also At AA Matriculation School,
Sponsored by St. Alfred Educational Trust,
No.42/1, Srinivasa Nagar,
Koyambedu, Chennai ...Respondent/Defendant

This application praying that this Hon'ble court be
pleased to set aside the order of the Master dated
17/10/2019 passed in A.No.4988 of 2019 in E.P.No.202 of
2018

This Application coming on this day before this
court for hearing the court made the following order:

This application is filed to set aside the order of
the Master dated 17.10.2019 in A.No.4988 of 2019 in
E.P.No.202 of 2018. I heard the learned counsel for the
applicant/decree holder and the learned counsel for the
respondent/judgment debtor. The learned counsel for the
applicant submitted that the decree in C.S.No.626 of 2006
is in force as on date and the decree has neither been set
aside nor stayed by an appellate court. Consequently, he

submitted that the judgment debtor has no basis to oppose the execution proceedings.

2. On the contrary, the learned counsel for the judgment debtor submitted that the order dated 27.02.2019 in E.P.No.202 of 2018 was passed exparte and that the judgment debtor did not receive notice on account of a change in the address of the judgment debtor. Therefore, he submitted that this application is liable to be rejected.

3. I considered the submissions of the learned counsel for the respective parties and also examined the impugned order of the Master. I find that the learned Master has recorded that the plaintiff is fully secured because the warrant of attachment was executed and the schedule property is under the attachment of the Court. After recording that the plaintiff is fully secured, the learned Master allowed the application so as to provide an opportunity to the judgment debtor to participate in the execution proceedings. I do not see any infirmity in the said order especially because the decree holder is protected by the order of attachment. Consequently, I do not propose to interfere with the order of the learned Master. Accordingly, this application is dismissed. It is made clear that this order will not in any manner restrain the decree holder from prosecuting the execution proceedings.

WEB COPY

Sd/-S.K.R.J.

05.02.2020

//Certified to be a true copy//
Dated this the day of 2020.

S.U./14.02.2020

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.