

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P (NPD). No.3776 of 2018 and

C.M.P. No.21068 of 2018

The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

... Petitioner

Vs.

J. Robert Raja

... Respondent

Prayer: The Civil Revision petition filed under Section 115 of the Civil Procedure Code against the order dated 16.11.2018 in E.P.No.13 of 2016 in A.S.No.1 of 2013 on the file of the District Judge, Nilgiris at Udhagamandalam.

For Petitioner : Mr.P.Srinivas

For Respondent : Mr.S.B.Viswanathan

ORDER

The Civil Revision Petition has been filed to set aside the order dated 16.11.2018 passed in E.P.No.13 of 2016 in A.S.No.1 of 2013.

2. The respondent initiated arbitration proceedings against the Municipality and an award was passed for a sum of Rs.62,02,860/- together with interest at 9% from 11.08.2008 till date of payment. The said award was sought to be executed. There was an interim order of attachment. That was challenged by way of Revision Petition before this Court in C.R.P.No.2823 of 2016. This Court had dismissed the revision petition with an observation that the petitioner will be at liberty to seek to set aside the ex-parte order before the Executing Court. The Executing Court was also directed to consider the said application without insisting upon the period of limitation. Thereafter, an application was filed to set aside the ex-parte order of attachment and the same was allowed. Thereafter, the Trial Court took up E.P.No.13 of 2016 for final disposal, allowed the same and directed

attachment of the movables. As against the said order the petitioner/Municipality has come up with this Civil Revision Petition.

3. I heard Mr.P.Srinivas, learned counsel appearing for the petitioner and Mr.S.B.Viswanathan, learned counsel appearing for the respondent.

4. Mr.P.Srinivas, learned counsel would contend that the Trial Court was not right in directing attachment of the movables and the Municipality has filed counter affidavit stating that it is taking steps to challenge the award. The award was passed as early as on 03.12.2013. No proceedings has been taken to set aside the award. The amount due under the award as on the date of filing of the Execution Petition is Rs.96,87,655/-. It is seen that pending C.R.P.No.2823 of 2016, the petitioner/Municipality has paid a sum of Rs.50,00,000/- and pursuant to the interim order made in this revision, the petitioner has paid a sum of Rs.20,00,000/-. Therefore, out of the

total award amount of Rs.96,87,655/- the petitioner/Municipality has paid a sum of Rs.70,00,000/-. The balance is about Rs.26,00,000/- with applicable interest.

5. Mr.P.Srinivas would submit that in the event of this Court not agreeing with his submissions on merits, the Municipality may be granted some time to pay the balance due under the award.

6. Considering the facts, I do not find any merits in the revision. The award has become final and the ex-parte order was set aside and thereafter the Execution Court has heard the petitioner municipallity and passed the order of attachment. Despite the best efforts, Mr.Srinivas is unable to show that the order suffers any material irregularity to enable interference under Section 115 of the Civil Procedure Code. Hence, the Civil Revision Petition fails and it is dismissed.

7. Considering the submissions of the learned counsel appearing for

Municipality, the Municipality is granted four (4) months time to pay the balance amount due under the award. If the amount is not paid within four months, it will be open to the respondent/decreed holder to take steps to enforce the attachment ordered. No costs. Consequently, connected miscellaneous petition is closed.

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rsi

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Speaking order

To:

1. The District Judge,
Nilgiris at Udthagamandalam.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

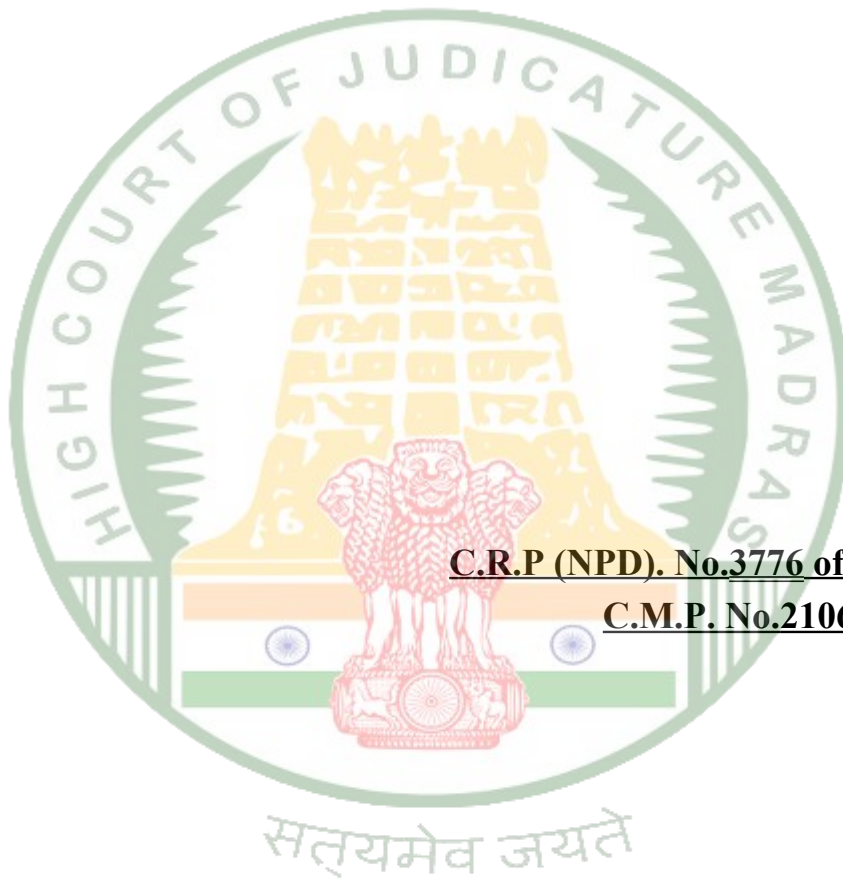


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R.SUBRAMANIAN, J.

rsi



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