



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .No.1918 of 2019

and

CM.P. (MD) .No.9796 of 2019

Ganesan

... Petitioner/Defendant

Vs.

Subramaniyan

... Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Case is filed under Section 115 of the Civil Procedure Code as against the order dated 07.09.2019 passed in E.P.No.14 of 2017 in O.S.No.77 of 2012 on the file of the Sub-Court, Muthukulathoor, Ramanathapuram District.

For Petitioner : Mr.Bindran

For Respondent : Mr.M.Suresh Kumar

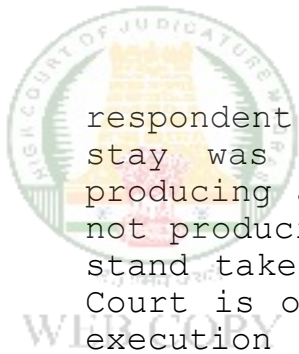
O R D E R

The respondent is the decree holder. The petitioner is the judgment debtor. The respondent filed an execution petition to execute the decree passed by the trial court. During the execution proceedings, the Executing Court passed an order on 07.09.2019 and rejected the objection made by the petitioner herein in E.P and sale paper was ordered. Dissatisfied with the said order dated 07.09.2019, the respondent in the E.P has filed the present revision petition before this court.

2.Even at the time of admission, this Court has granted an order of interim stay by imposing a condition to deposit Rs.60,000/-. The petitioner has not deposited the said amount and not complied with the earlier order of this Court.

3.The main contention raised in the E.P by the petitioner/respondent therein is that challenging the judgment and decree passed by the trial court, he filed an appeal and the said appeal is pending.

4.But on a perusal of the order passed by the
<https://hcservices.courts.gov.in/hcservices/> Execution Courts, it is seen that even the petitioner herein/



respondent therein has not produced any appeal number, otherwise stay was granted by the appellate court. In the absence of producing an order of stay from the appellate court, even otherwise not producing any appeal number, the Execution Court disbelieved the stand taken by the respondent therein. In view of the above, this Court is of the view that mere filing of appeal will not deter the execution proceedings, unless the appellate court stayed the operation of the decree. In the said circumstances, this Court does not find any perversity in the order passed by the Execution Court.

5. In the said circumstances, this civil revision petition is dismissed. No costs. The Execution Court is directed to proceed with the E.P.No.14 of 2017 in O.S.No.77 of 2012 in accordance with law. The respondent/decreed holder is directed to co-operate with the Execution Court to dispose the E.P in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

/ /2020
Sub Assistant Registrar

To

The Sub-Court, Muthukulathoor,
Ramanathapuram District

+1. C.C. to M/S.M.Suresh Kumar, Advocate SR.No. 11278

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vs
JM/12.05.2020/2P/3C