



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Thirtieth day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.10555 of 2019
IN
CRP(MD) No.1763 of 2018

E.BARNABAS

... PETITIONER/ PETITIONER

Vs

V.SELVARAJ

... RESPONDENT/ RESPONDENT

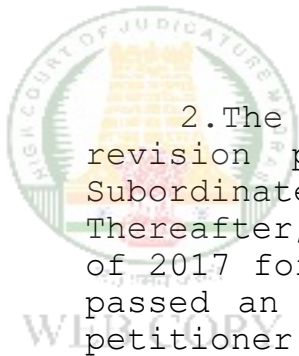
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Modify the order dated 25.8.2018 directing the petitioner to pay Rs.5000/- instead of Rs.10,000/- per month to the credit of EP.No.28 of 2017 in O.S. No.77/2006 on the file of Sub court Thoothukudi.

PRAYER IN CRP(MD) No.1763 of 2018:

To allow this Civil Revision Petition setting aside the order dated 18.07.2018 made in E.P.No.28 of 2017 in O.S.No.77 of 2006 on the file of Sub court Thoothukudi.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.VELLACHAMY, Advocate for the petitioner and of MR.G.PRABHU RAJADURAI, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to modify the order, dated 25.08.2018 in C.M.P.(MD)No.7717 of 2018 in C.R.P.(MD)No.1763 of 2018, directing the petitioner to pay a sum of Rs.5,000/- instead of Rs.10,000/- per month to the credit of E.P.No.28 of 2017 in O.S.No.77 of 2006 on the file of the Subordinate Court, Thoothukudi.



2.The respondent herein obtained a money decree against the revision petitioner in O.S.No.77 of 2006 on the file of the Subordinate Court, Thoothukudi. The suit was decreed on 25.08.2014. Thereafter, the respondent filed an execution petition in E.P.No.28 of 2017 for recovery of a sum of Rs.2,96,224/-. The Executing Court passed an order, dated 18.07.2018 to the effect that the revision petitioner should pay a sum of Rs.25,000/- per month and the first installment of Rs.25,000/- should be paid on or before 26.07.2018. This order was challenged in the main revision petition.

3.This Court, by order, dated 25.08.2018 in C.M.P.(MD)No.7717 of 2018 in C.R.P.(MD)No.1763 of 2018, granted interim stay on condition that the petitioner should pay a sum of Rs.10,000/- per month to the credit of E.P.No.28 of 2017. After making payment at the rate of Rs.10,000/- per month, the revision petitioner has approached this Court by filing this petition for modification of order, dated 25.08.2018 by permitting him to pay a sum of Rs.5,000/- per month instead of Rs.10,000/- per month as per the earlier order.

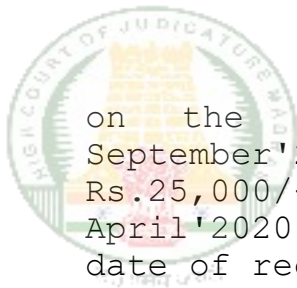
4.The petitioner has pleaded that some concession is required on account of his poor financial condition. It is stated that he has got only a house, where, he is eaking his livelihood with the small cattle. Stating that the petitioner finds it difficulty to run his family with the huge financial commitment, the petitioner requests this Court to show some indulgence.

5.This Court would have normally dismissed the application. Considering the pandemic situation, the Government of India has taken policy decisions and issued circular through RBI to announce moratorium for all the borrowers and not to take coercive steps to recover money during this pandemic period, since the economic condition of every industry has gone worse.

6.The learned Counsel for the petitioner stated that as per the interim order, dated 25.08.2018, the petitioner has paid Rs.10,000/- per month till March'2020 and that a sum of Rs.1,90,000/- had already been paid towards the discharge of the decree in the suit in O.S.No.72 of 2006. He further submitted that even after filing this petition, the petitioner was paying the installment till March'2020. This shows the fair conduct of the petitioner. In such circumstances, the petitioner deserves some concession.

7.Though the learned Counsel for the respondent has raised serious objections, this Court, having regard to the peculiar facts and circumstances of the case, pass the following order:

7.1.The order, dated 25.08.2018 in C.M.P.(MD)No.7717 of 2018 in C.R.P.(MD)No.1763 of 2018 is modified, by directing the petitioner to pay a sum of Rs.5,000/- per month instead of Rs.10,000/- per month to the credit of E.P.No.28 of 2017 in O.S.No.77 of 2006



on the file of the Subordinate Court, Thoothukudi, from September'2020. The petitioner shall further deposit a sum of Rs.25,000/- towards the payment, which is due for the period from April'2020 to August'2020, within a period of eight weeks from the date of receipt of a copy of this order.

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30/07/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE JUDGE,
SUB COURT, THOOTHUKUDI.

ORDER
IN
CMP (MD) No.10555 of 2019
IN
CRP (MD) No.1763 of 2018
Date :30/07/2020

CMR
JM/JC/SAR 3/05.08.2020/3P/2C