

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

**C.R.P.(NPD) No. 2077 of 2018
and CMP. Nos.12410 of 2018 & 1244 of 2020**

1.M/s.Sri Meenambikai Mills, (Regd Firm)
Palappampatty, Udumalpet Taluk,
By its Managing Director,
Mr.Alwar Hisra @ Alwar Pillai (died)
By its Successor

2. A.Muthusivasamy
The partner of M/s.Sri Meenambikai Mills. Petitioners

Vs

1.M/s.Vasanth Vinayaka Cotton
Corporation (Regd Firm)
represented by its Managing Parter
Sri.Viswanathan,
Having office at No.30/288,
Boggu Line Noonopalli,
R.C.Road, Nandyal,
Karnool District.

2.A.Sethupathy,
The partner of M/s.Sri Meenambikai Mills ... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 12.03.2018 made in E.P.No.43 of 2010 in O.S.No.7 of 1999 on the file of the Sub Court, Udumalpet.

For Petitioners : Mr.Gopalakrishnan

For R1 : Mr.D.R.Arunkumar

For R1 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 12.03.2018 made in E.P.No.43 of 2010 in O.S.No.7 of 1999 on the file of the Sub Court, Udumalpet.

2. The plaintiff in O.S.No.7 of 1999, who is the respondent herein has filed the suit against the petitioner herein for recovery of a sum of Rs.7,13,400.60 with interest at 12% per annum and for cost.

3. The plaintiff firm, namely, M/s.Sri Vasanth Vinayaka Cotton Corporation, is a registered firm and it was doing a business in cotton, by purchasing the same from growers and selling it to be the prospective buyers. The defendant firm, namely, M/s.Sri Meenambikai Mills, is one of

the customers of plaintiff firm and it was purchasing the cotton on credit basis, through its agents, by placing orders.

4. The petitioner's late father had purchased the cotton from the respondent for the value of Rs.5,05,355/- on credit basis, to which, a part of amount was settled, even before filing of the suit by the respondent firm. After filing the suit, the petitioner's late father had further paid a sum of Rs.3,75,000/- by way of Demand Drafts. While so, the respondent had filed a suit in O.S.No.7 of 1999 and had obtained an ex parte decree for an amount of Rs.7,13,400.60 without the knowledge of the legal heirs of the said deceased father. Only when the Execution Petition was filed, the petitioner firm came to know about the proceedings initiated by the respondent firm. The said Execution Petition was filed to receive a sum of Rs.7,13,400.60.

5. The learned counsel for the petitioner would submit that the attachment of the suit schedule property is situated at Plot No.A-9, M.Venkaachalam Pillai Street, Ward No.B, Block No.7, T.S.No.8, Gandhi

Nagar, Udumalpet Taluk, Tiruppur District. The valuation report filed by the Commissioner and the certificate issued by one Er.C.Sivakumar, Consulting Civil Engineer Licensed Building Surveyor, residing at 16-B/1, Cutchery Street, Udumalpet -642 126, would show that the total extent of land of the said schedule property is 8400 sq.ft and the market value of the land is Rs.1,92,86,400/-. The market value of the buildings situated in front and rear side portion of the said schedule property is Rs.40,00,000/-, thereby the total market value of the land and building is Rs.2,32,86,400/-.

6. The learned counsel for the petitioner also would contend that the Execution Petition filed by the respondent firm, was only to recover a sum of Rs.15,73,044.60, to which, the entire property of the petitioner is ordered to be brought for sale. The petitioner would also contend that one cent, out of the total property of an extent of 20 cents, would be sufficient to satisfy the decree amount.

7. Considering the value of the schedule property and also the decree amount, this Court is of the considered opinion that it is sufficient to

attach and sell part of the land, namely, 5 cents to meet the decree amount. Accordingly, the order passed in E.P.No.43 of 2010 in O.S.No.7 of 1999, on the file of the Sub Court, Udumalpet, is set aside and modified the extent and the Court below is directed to attach and sell the extent of 5 cents alone to meet the decree amount.

8. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.06.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To

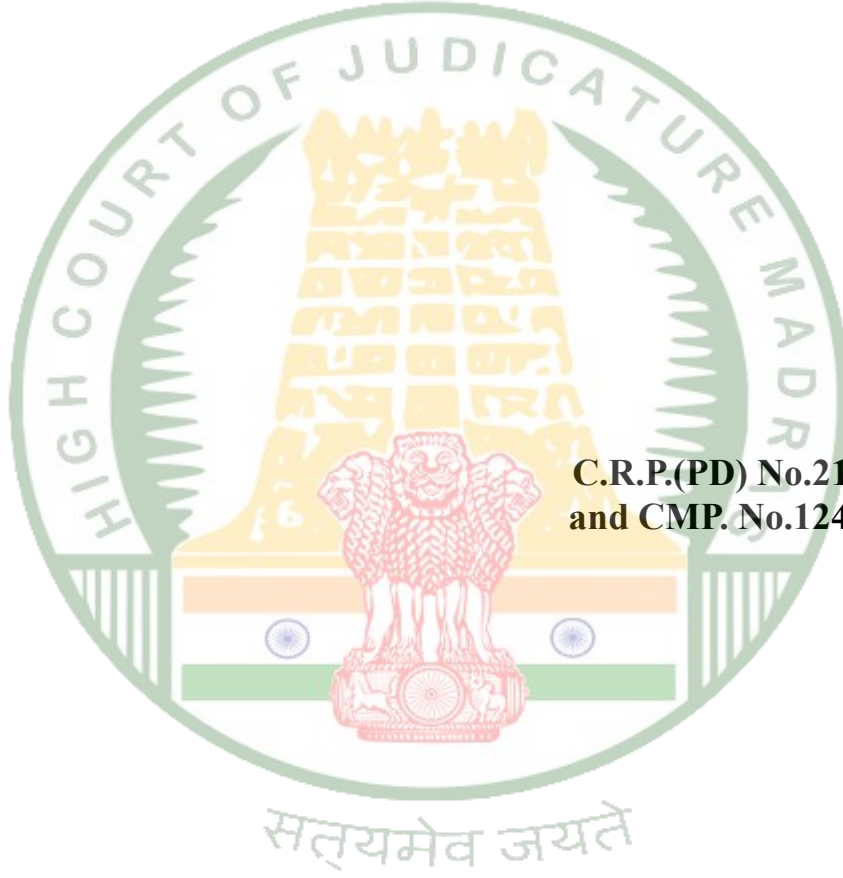
The Sub Judge,
Udumalpet.

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C.R.P.(N.P.D).No.2077 of 2018

G.K.ILANTHIRAIYAN.J,

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**C.R.P.(PD) No.2106 of 2018
and CMP. No.12410 of 2018**

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