

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

CORAM

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

CRP.NPD.No. 2102 of 2016

and

CMP.No.10984 of 2016

Tanweer Ahmed

... Petitioner

Vs.

M/s.Indo Burma Handwares
By its Managing Partner,
S.Ahmed Basheer
68 (39), Maddady Street,
Chennai – 600 001.

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to allow the Civil Revision Petition and to set aside the fair order and decretal order passed in E.A.No.28 of 2015 in E.P.No.18 of 2015 on the file of the Subordinate Judge, Vaniyambadi, Vellore District in O.S.No.4636 of 2007 dated 22.04.2016 on the file of XVI Assistant City Civil Court at Chennai.

For Petitioner : Mr.L.Prabakar

For Respondent : Mr.L.Rajasekar

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in E.A.No.28 of 2015 in E.P.No.18 of 2015 on the file of the Subordinate Judge, Vaniyambadi, Vellore District in O.S.No.4636 of 2007 dated 22.04.2016 on the file of XVI Assistant City Civil Court at Chennai, thereby, dismissing the petition filed by the petitioner seeking permission to file additional counter in the Execution Proceedings.

2. The petitioner is the second defendant in the suit filed by the respondent for recovery of money. The suit was contested and decreed in favour of the respondent by the judgment and decree dated 22.09.2008. In pursuant to the decree, the respondent filed an Execution Petition for arrest of the petitioner herein. Initially, the petitioner filed a counter on 17.11.2015. Thereafter, the petitioner also filed another petition seeking permission to file additional counter for the Execution Petition. The Court below on perusal of the additional counter filed along with the petition seeking permission to file the additional and dismissed the petition. The only contention of the petitioner is that without even permitting the petitioner to file additional counter, the Court below passed the order after

perusal of the additional counter. Therefore, the order passed by the Court below is liable to be set aside.

3. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in E.A.No.28 of 2015 in E.P.No.18 of 2015 in O.S.No.4636 of 2007 dated 22.04.2016 is set aside. The petitioner is permitted to file his additional counter in the Execution Proceedings and thereafter, the Court below is directed to pass orders on merits in accordance with law within a period of two weeks from the date of receipt of the additional counter. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

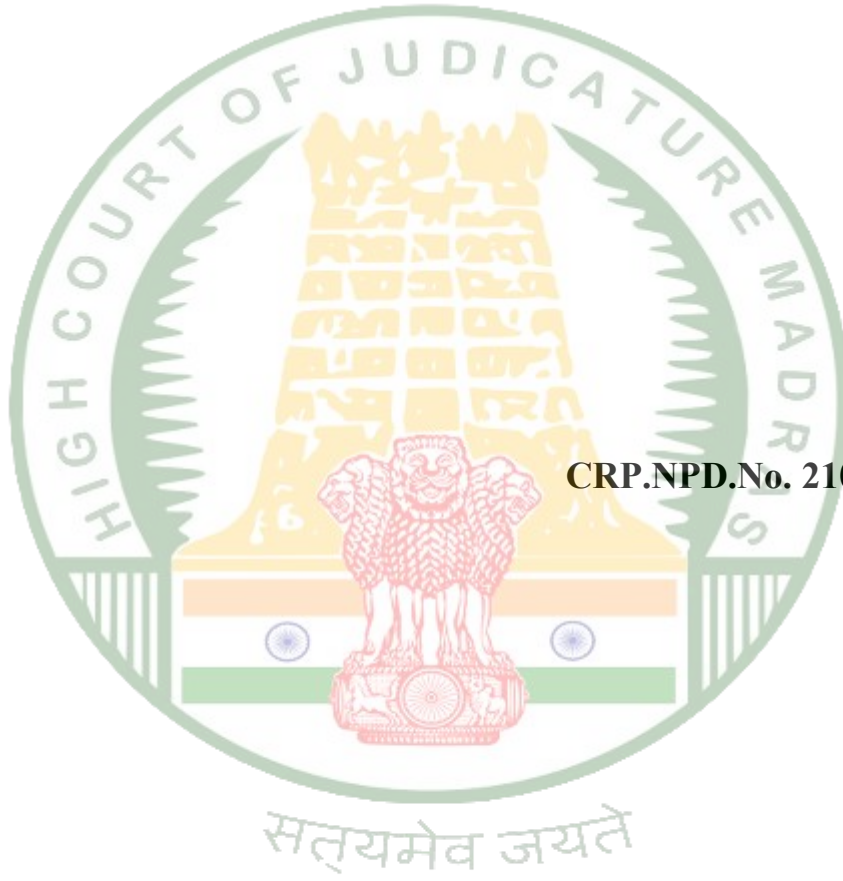
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To

1. The Subordinate Judge, Vaniyambadi, Vellore District.
2. The XVI Assistant Judge, City Civil Court at Chennai.

G.K.ILANTHIRAIYAN,J.

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