

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD). No.1859 of 2021

(Through Video Conference)

Rani Paul

...Petitioner

Versus

1. K. Krishnamurthy

2. Dr. Paul Vijayarajan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the lower court to number the application in E.A.SR.No.27509 of 2021 in E.P No.3506 of 2017 in O.S.No.2701 of 1996, on the file of the learned XXVIII Assistant Judge, City Civil Court at Chennai and to proceed with and dispose of the same in accordance with law.

For Petitioner : Mr. S. Subbiah

ORDER

This Civil Revision Petition is filed challenging the order of return made by the learned XXVIII Assistant Judge, City Civil Court at Chennai in E.A.SR.No.27509 of 2021 in E.P No.3506 of 2017 in O.S.No.2701 of 1996.

2. The learned counsel for the petitioner submitted that the petitioner filed execution proceedings against the respondents for recovery of money. When the execution petition was pending, the respondents gave a cheque dated 28.04.2021 for an amount of Rs.60,000/- in the open Court on 28.04.2021. When the said cheque was presented for collection, it was returned for the reason that there is no sufficient funds. The act of the respondents in giving the cheque for discharging part of the decree amount without sufficient funds in the account, amounts to offences punishable under sections 186, 196, 206, 209, 406 and 420 of Indian Penal Code. That apart, it amounts to committing contempt of Court and also liable to be punished for contempt of Court.

3. The petitioner filed the aforesaid interlocutory application in E.P.No.3506 of 2017 for referring the matter to the Registrar General, High Court of Madras for action to be taken for committing contempt of Court. He further submitted that the petition was returned on the ground of maintainability. Against the said order, this Civil Revision Petition has been filed.

4. Considered the submissions of the learned counsel for the petitioner and perused the records.

5. The return endorsement shows that the E.A. was returned for the following reasons:-

1. How this petition is maintainable?
2. The D.H. wantonly received the cheque from J.D. on 28.04.2021. The J.D. has not paid the amount on that date. Hence, no complaint has arisen against D.H.; and
3. The cheque issued and review of the EP is not proper way to fulfill of part satisfaction. Hence, this petition is not maintainable at provisions mentioned in petition. Hence, returned.

6. This Court does not want to go into the merits of the claim made in the application with regard to the alleged act of contempt committed by the respondents. It is sufficient to state that if the learned XXVIII Assistant Judge, City Civil Court, Chennai finds that this petition is not maintainable in law, he is expected not to return the petition but to reject the petition. On the other hand, if the learned XXVIII Assistant Judge, City Civil Court, Chennai finds that the petition is maintainable under law, then, he is required to number the application and proceed to dispose the matter in accordance with law.

G.CHANDRASEKHARAN, J.,

sts/JAI

7. The return made in the present form is not acceptable. Therefore, the learned XXVIII Assistant Judge, City Civil Court, Chennai is directed to follow either of the aforesaid options and dispose the petition on merits and in accordance with law. The originals papers filed along with this petition to be returned to the learned counsel for the petitioner.

8. With the above directions, this **Civil Revision Petition is Disposed.**

No costs.

08.09.2021

Index: Yes/ No

Speaking Order / Non-Speaking Order

sts/JAI

To

The XXVIII Assistant Judge,

City Civil Court ,

Chennai.

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Order made in

C.R.P.(NPD). No.1859 of 2021