



C.R.P.(NPD).No.2483 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2483 of 2021

and

C.M.P.No.18737 of 2021

1.M/s.Rajshree Laminates Ltd.
Rep. by its Director
J.Prakash Mehta
159, Ponnurangam Road (East)
R.S.Puram, Coimbatore – 641 002.
2.Prakash J Mehta
3.Dinesh Mehta

.. Petitioners

Vs.

M/s.Industrial Venture Capital Limited
Rep by its Law Officer
A.Hema Jothi
112, Vairama, Thyagaraya Road
T.Nagar, Chennai – 600 001.

.. Respondent

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, praying to set aside the order dated 18.08.2021 in E.P.No.44 of 2016 in C.S.No.341 of 2001 passed by the learned V



C.R.P.(NPD).No.2483 of 2021

Additional District Judge, Coimbatore and quash the same as illegal and arbitrary.

For Petitioners : Mr.S.R.Kalyani

ORDER

Challenge in this Revision is to the order of the Executing Court dismissing the application seeking leave to file additional counter statement in the execution petition.

2. The learned trial Judge dismissed the application on the ground of delay and on the ground that this Court had already directed the execution proceedings to be disposed of within a time frame. The execution Court also saw this application as an attempt to delay the execution proceedings.

3. Mr.S.R.Kalyani, learned counsel appearing for the petitioner would vehemently contend that the monies due under the decree have been paid and the same has been recognised in the criminal appeal that arose out of the



C.R.P.(NPD).No.2483 of 2021

proceedings under Section 138 of the Negotiable Instruments Act and all that the petitioner wanted to place before the Court was factum of such payment by way of additional counter statement.

4. I am afraid that such a contention is not open to the judgment debtor/ the petitioner. Order XXI Rule 2 Sub-Rule (3) prohibits the execution Court from recognising payments that have not been certified under Sub-Rule (2) or Sub-Rule (1) of Rule 2 of Order XXI of the Code of Civil Procedure.

5. Admittedly the payment that is claimed to have been made has not been certified as required under Sub-Rule (1) and (2) of Rule 2 of Order XXI of the Code of Civil Procedure. Therefore, even if the counter statement is to be accepted, the Court cannot look into that or recognise the payment.

6. Hence, I do not see any illegality or irregularity in the order of the



C.R.P.(NPD).No.2483 of 2021

learned trial Judge. The Revision therefore fails and it is accordingly dismissed. No costs. Consequently the connected miscellaneous petition is closed.

23.11.2021

dsa

Index : No

Internet : Yes

Speaking order

To

The V Additional District Judge, Coimbatore.



WEB COPY



C.R.P.(NPD).No.2483 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(NPD).No.2483 of 2021

23.11.2021