



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2238 of 2021

and

C.M.P.No.17000 of 2021

M/s.Aero Star Travels India Pvt.Ltd.,  
Rep. by its Director,  
M.S.Mohamed Ansari,  
Old No.95, New No.200,  
Angappa Naicken Street,  
Chennai - 600 001.

... Petitioner/Respondent

Vs

1.H.Mohamed Zaid  
2.Mrs.K.T.M.A.Aminath Kathija  
3.Mrs.H.Ayeshath Zaneera  
4.Mrs.S.A.Zainab Sulaiha  
5.Mrs.A.Hafsa  
6.Mrs.A.Farooza  
7.Mrs.A.Naleema

... Respondents/Petitioners

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code praying to set aside the docket order dated 28.09.2021 made in E.P.No.155 of 2015 in R.C.O.P.No.1122 of 2013 on the file of the Learned X Small Causes Court, Chennai and allow the Civil Revision Petition.

For Petitioner : Mr.A.L.Fran Paul Asirvadam

O R D E R

This Petition is filed challenging the docket order dated 28.09.2021 in E.P.No.155 of 2015 in R.C.O.P.No.1122 of 2013 on the file of the X Small Causes Court, Chennai.



2.The Learned Counsel for the Petitioner submitted that the Petitioner paid a sum of Rs.9,50,000/- and it has not been returned by the Respondents. It is further submitted by the Petitioner that Execution Petition was terminated on 08.10.2021.

3.Considered the submissions of the Learned Counsel for the Petitioner and perused the records.

4.Docket order dated 28.09.2021 on the file of X Small Causes Court, Chennai in E.P.No.155 of 2015 reads as follows:

"Judgment Debtor counsel present and filed a memo stating Judgment Debtor had field two CMP.Nos.9655 and 9657 of 2021 before the Honorable High Court for extension of time. On perusal of records it is seen that against the order of the Honorable High Court passed in C.R.P.No.46 and 47 of 2019, dated 09.04.2021 the Judgment Debtor had preferred the SLA.Nos.6852-6853/2021 before the Honorable Supreme court. The Honorable Supreme Court by its order dated 21.05.2021 passed in above special leave to appeal numbers, has granted time to vacate the premises in question on or before 31.07.2021. But, this fact was suppressed by the Judgment Debtor in his memo filed before this court today Fortunately above order was communicated by the Honorable Supreme Court to this court. The above attitude of the Judgment Debtor clearly records his real intention. Further, when the Honorable Supreme court granted time to vacate the premises no petition for extension of time can be field before the Honorable High Court. Hence, the memo filed by the Judgment Debtor is rejected. On perusal of records it is seen that delivery was ordered in this case on 12.03.2015. Order for break open the lock and police aid was granted on 27.03.2021. Now this court bound to execute the order of the Honorable Supreme Court passed in above special leave appeal. Hence, delivery by 08.10.2021. Since order for break open the lock and police aid was already granted the bailiff can avail those options, if necessary without any further orders from this court. Delivery by 08.10.2021."



5.It is seen from this docket order that this Court passed orders in C.R.P.Nos.46 and 47 of 2019 on 09.04.2021 and Judgment Debtor preferred S.L.A.Nos.6852-6853 of 2021 before the Hon'ble Supreme Court. The Hon'ble Supreme Court in its order dated 21.05.2021, granted time to vacate the premises in question on or before 31.07.2021 to the Judgment Debtor. It appears that this fact was suppressed by the Judgment Debtor. It is also observed that delivery was ordered on 12.03.2015 and order for break open the lock and police aid was also ordered on 27.03.2021.

6.Finding that Court has to execute the order of the Hon'ble Supreme Court, the Learned X Judge, X Small Causes Court, Chennai ordered delivery by 08.10.2021. It is now reported that delivery was effected and Execution Petition was terminated on 08.10.2021. The submissions of the Learned Counsel for the Petitioner that there is an advance amount of Rs.9,50,000/- available with the Respondents and Respondents is bound to pay this amount, cannot be considered in this Civil Revision Petition. It is for the Petitioner to work out its remedy for recovery of advance amount in the manner known to law. In view of the fact that delivery was effected and Execution Petition was terminated, nothing survives in this Petition.

7.Accordingly, this Civil Revision Petition is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

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To  
The X Small Causes Court,  
Chennai.

C.R.P.No.2238 of 2021  
and C.M.P.No.17000 of 2021

SVI(CO)  
B.VC (28/10/2021)