

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

CRP.PD.No. 3563 of 2017

M/s.Ponni Sugars (Erode) Ltd.,
Rep. By Assistant Manager Mr.K.Krishnamoorthy
and Vijayakumar,
having factory at
Cauvery R.S.Post, Thiruchengode Taluk,
Erode-638 007

... Petitioner

Vs.

R.Periasamy

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure praying to set aside the fair and decreetal order in REP No.45 of 2014 in O.S.No.107 of 2007 dated 30.08.2017 on the file of the Principal District Munsif Court, Thiruchengode.

For Petitioner : Mr.A.Veerasingam

For Respondent : Mr.R.Marudhachalamurthy

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order in REP No.45 of 2014 in O.S.No.107 of 2007 dated 30.08.2017 on the

file of the Principal District Munsif Court, Thiruchengode, thereby directing the petitioner to furnish the property details, accounts, within a period of four weeks failing which, action will be taken under Order 21 Rule 41(3) CPC.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed a suit for recovery of money to the tune of Rs.86,155/- in O.S.No.107 of 2007. Pending the suit, the respondent filed an interpleader suit in O.S.No.229 of 2007 and at the time of filing of the suit itself, the respondent deposited a sum of Rs.69,904/- as to the claim made in O.S.No.107 of 2007. Thereafter, the suit filed by the respondent was decreed by judgment and decree dated 10.09.2014 for a sum of Rs.73,531/- along with interest at 12% p.a. Pursuant to the decree, the respondent filed an execution petition for a sum of Rs.1,50,493.44. Both the suits were tried jointly and O.S.No.107 of 2007 filed by the respondent was decreed and O.S.No.229 of 2007 filed by the petitioner herein was dismissed. In the mean while, the appeal in A.S.No.41 of 2014 has been filed against the judgment and decree in O.S.No.107 of 2007 and A.S.No.42 of 2014 is against the judgment and decree in O.S.No.229 of 2007 on the file of the

Subordinate Court, Thiruchengode, though the petitioner herein filed a memo before the Execution Court stating that they have no objection to withdraw the amount deposited in O.S.No.229 of 2007 on the file of the District Munsif Court, Thiruchengode. Though the petitioner filed a memo, no order as to grant permission to the respondent to withdraw the said amount, has been passed. Therefore, the Execution Court ordered the petitioner herein to furnish the property details and the accounts and also the details in respect of the amounts shown in the accounts by way of affidavit within a period of four weeks. However, the learned counsel for the petitioner would submit that the petitioner has no objection to withdraw the said amount deposited to the credit of O.S.No.229 of 2007 and he may be permitted to pursue the appeals in A.S.Nos.41 and 42 of 2014 on the file of the Subordinate Court, Thiruchengode. In fact, the said appeals were posted for hearing on 26.04.2021.

3. The learned counsel for the respondent would submit that the Execution Proceedings in REP No.45 of 2014 has been filed for a sum of Rs.1,50,493/- whereas the petitioner deposited only a sum of Rs.69,904/-. Therefore, the decree amount has to be deposited by the petitioner herein.

4. I heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials placed on record.

5. Considering the above submissions, the respondent is permitted to withdraw the amount deposited by the petitioner in O.S.No.229 of 2007 on the file of the District Munsif Court, Thiruchengode forthwith. The petitioner is directed to deposit the remaining amount after deducting the amount deposited to the credit of O.S.No.229 of 2007, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the respondent is entitled to the interest as per the decree, is subject to the result of the appeal suits in A.S.Nos.41 and 42 of 2014 pending on the file of the Subordinate Court, Thiruchengode.

6. In view of the above direction, this Civil Revision Petition is allowed and the order passed in R.E.P.No.45 of 2014 in O.S.No.107 of 2007 dated 30.08.2017 pending on the file of the District Munsif Court, Thiruchengode, is hereby set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

01.04.2021

Speaking order: Yes/No
Index : Yes/No

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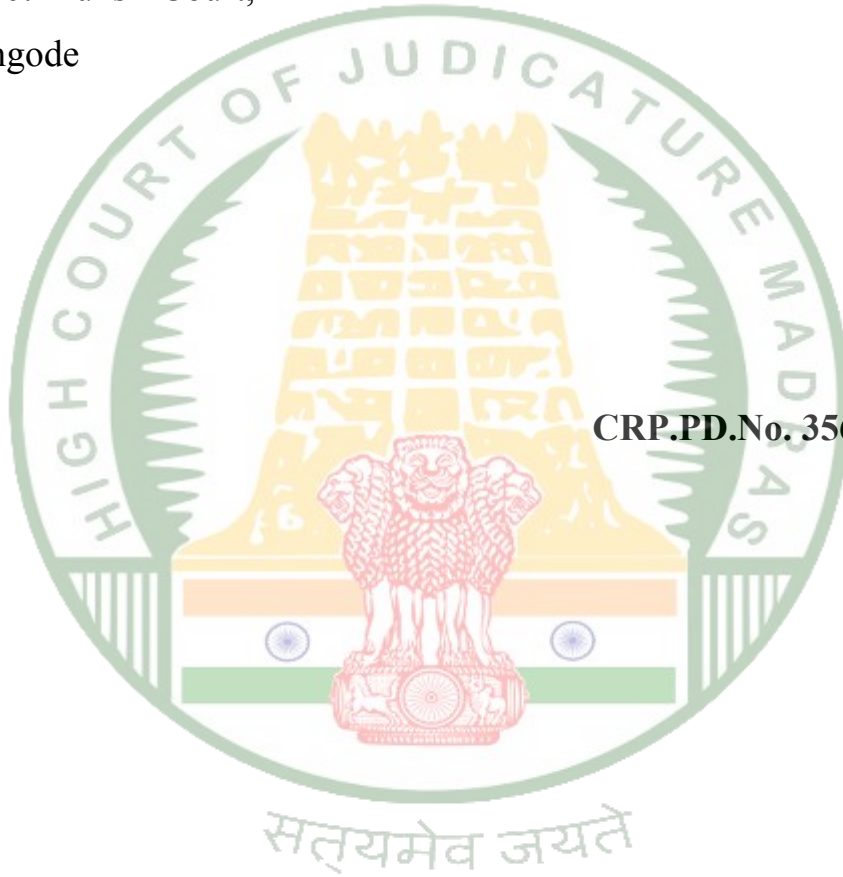
Note: Issue Order Copy on 08.04.2021

G.K.ILANTHIRAIYAN,J.

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To

The District Munsif Court,
Thiruchengode



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