

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14..07..2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition (NPD) No.4038 of 2018

and

C.M.P.No.22334 of 2018

G.Jawahar

... Petitioner

-Versus-

Sri.Thirumala Traders
Rep. by Power of Attorney
Sri.Sankar Rao,
2/3, Brodipet,
Guntur,
Andhra Pradesh.

... Respondent

Civil Revision Petition is filed under Section 115 of The Code of Civil Procedure, 1908, praying to set aside the order and decretal order dated 23.10.2018 made in E.A.No.151 of 2017 in E.P.No.230 of 2010 in O.S.No.133 of 1996 passed by the learned Principal District Judge, Coimbatore, Coimbatore District.

For Petitioner

: Mr.Valliappan P.

For Respondent

: Mr.R.Babu

ORDER

[This matter has been heard through video conference]

This civil revision petition has been filed challenging the order dated 23.10.2018 made in E.A.No.151 of 2017 in E.P.No.230 of 2010 in O.S.No.133 of 1996 filed under Section 47 of CPC seeking to declare the decree dated 28.04.2006 passed in O.S.No.133 of 1996 by the learned II Additional Senior Civil Judge, Guntur, as incapable of being executed as against the petitioner and terminate the Execution Petition. The petitioner is the judgement debtor and the respondent is the decree holder.

2. This court, earlier, by order dated 03.12.2019 referred this matter to the Tamil Nadu Mediation and Conciliation Center attached to this court for mediation between the parties. After mediation, the matter has been listed before this court for further orders.

3. The learned counsel for the petitioner submitted that dispute has been settled between the parties amicably before the Mediation and Conciliation Center whereby the petitioner had agreed to pay a sum of Rs.15,00,000/-

(Rupees Fifteen Lakhs only) to the respondent towards full and final settlement in three equal installments and the respondent had agreed to receive the same. The learned counsel for the respondent also admitted the fact of settlement.

4. The report of the Tamil Nadu Mediation and Conciliation Center, High Court, Madras has been placed on record. The terms of memo of compromise reached between the parties read as follows:-

"(a) The petitioner agrees to pay a total sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the respondent in full and final settlement of the claim in the above execution petition in E.P.No.230 of 2010 on the file of the Principal District Court at Coimbatore, in three equal installment of Rs.5,00,000/- (Rupees Five Lakhs only) on cash as follows:-

(i) Rs.5,00,000/- (Rupees Five Lakhs only) on or before 30.04.2020

(ii) Rs.5,00,000/- (Rupees Five Lakhs only) on or before 31.05.2020

(iii)Rs.5,00,000/- (Rupees Five Lakhs only) on or before 30.06.2020

(b) On receipt of the above payment, the Execution Petition in E.P.No.230 of 2010 on the file of the Principal District Court at Coimbatore, shall stand dismissed.

(c) The attachment in respect of the property, subject matter of the Execution Petition situate in the building known as "Geejay Arcade" at T.V.Swamy Road, R.S.Puram, Coimbatore 641 002, the cellar portion measuring 1000 square feet only with the building therein bearing Door No.121, with all fixtures, electricity service connection, common right to use the common passages and other common amenities, shall be stand raised and the same communicated to the concerned Sub Registrar Office.

(d) There are no other claims between the petitioner and the respondent.

(e) In case of any default by the petitioner, this memo of compromise shall stand revoked and the parties are entitled to proceed in accordance with law."

5. The learned counsel for the petitioner submitted that pursuant to the settlement arrived at between the parties before the mediation, the petitioner has paid the entire sum of Rs.15,00,000/- in three installments and the respondent had received the same towards full and final settlement. He has filed a memo

dated 2nd July, 2021 to that effect and the same is recorded. The learned counsel for the respondent has also submitted that he had instructions from the petitioner to report that the petitioner had received the entire amount from the petitioner in three installments as agreed upon between them. The relevant portions of the memo filed by the petitioner read as follows:-

"It is respectfully submitted that pending the above Civil Revision Petition, the parties resolved to settle the matter amicably between themselves. Accordingly, the matter was referred to the Mediation and Conciliation Center attached to this Hon'ble Court.

During the mediation process, the petitioner agreed to pay a total sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) and the respondent agreed to receive the same in full satisfaction of the decree passed by the Second Additional Senior Civil Judge at Guntur in O.S.No.133 of 1996.

In pursuance of the above understanding, the petitioner has now paid the entire sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the respondent in installments and the respondent has confirmed the receipt of the same.

The respondent has no further claim against the petitioner and the matter is completely settled."

6. Recording the agreement entered into between the parties before the Tamil Nadu Mediation and Conciliation Center, the Civil Revision Petition is allowed in the following terms:-

(i) the order and decretal order dated 23.10.2018 made in E.A.No.151 of 2017 in E.P.No.230 of 2010 in O.S.No.133 of 1996 impugned in the present revision petition stand set aside;

(ii) E.P.No.230 of 2010 on the file of the Principal District Court at Coimbatore, shall stand dismissed;

(iii) the order of attachment in respect of the property which is subject matter in the Execution Petition shall stand raised;

(iv) the Principal District Judge, Coimbatore, shall communicate a copy of this order to the Sub Registrar concerned as expeditiously as possible, preferably within a period of two weeks from the date of receipt of a copy of this order with appropriate directions for making necessary entries in the relevant registers maintained at the Office of the

Sub Registrar;

(v) the memo of compromise entered into between the petitioner and the respondent dated 4th March, 2020, before the Tamil Nadu Mediation and Conciliation Center, High Court, Madras, and the memo dated 2nd July, 2021 filed by the petitioner today before this court, shall form part and parcel of this order;

(vi) both parties shall bear their respective costs throughout;

(vii) Consequently, connected CMP is closed.

Index : yes / no
Internet : yes / no
Speaking / Non Speaking Order
kmk

14..07..2021

To

1.The Principal District Judge, Coimbatore, Coimbatore District.

C.R.P.(NPD) No.4038 of 2018

V.BHARATHIDASAN.J.,

kmk



Civil Revision Petition (NPD)
No.4038 of 2018

WEB COPY

14..07..2021

8 of 8