



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(NPD)Nos.700 & 701 of 2022
& CMP.Nos.3560 & 3561 of 2022

Messrs.Rajalakshmi Educational Trust
Represented by its Managing Trustee,
Mr.ThangamMeganathan ... Petitioner/Judgment Debtor
in both CRPs

Versus

M/s.MechStruc Engineers
Represented by its Managing Partner
P.Kasturi. ... Respondent/Decree Holder
in both CRPs

PRAYER: The Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to direct to number the EA.SR.Nos.36380 & 36382 of 2021 in E.P.No.4101 & 4099 of 2019 in O.S.Nos.10188 & 10029 of 2010 pending on the file of the IX Assistant City Civil Judge, Chennai and dispose according to law.

For Petitioners : Mr.P.Neethikumar
in both CRP's

O R D E R

The Revision Petitioner in both the cases is the Judgement Debtor in E.P.No.4101 of 2019 in O.S.No.10188 of 2010 and E.P.No.4099 of 2019 in O.S.No.10029 of 2010. The decree has become final. While so, the Judgment Debtor has taken out two separate petitions in the Execution Petitions, which have not yet been taken on record, claiming that the name of the partners of Decree Holder's firm has not been disclosed. They came to be dismissed without even being taken on record.

2.Heard, the learned counsel for the Revision Petitioner/Judgment Debtor in both the cases. His thrust is essentially on Order XXI Rule 11(2) CPC and Order XXI Rule 17 CPC. The allegation is that they have been breached. Order XXI Rule 11(2) CPC is about the mode of payment of money based on a decree for money. Order 21 Rule 17 deals with the procedure required to be followed by the Execution Court on a matter covered under Order 21 Rule 11(2) CPC.



3.This Court is not impressed with the statement of the learned counsel. Here is a situation where the decretal sum is not challenged, nor the character of the Decree Holder as a partnership firm is challenged. At the end of the day, the obligation is on the Judgment Debtor to satisfy the decree-debt.

4.The learned counsel for the Revision Petitioner stated some amounts have been deposited to the credit of both the E.P.Nos.4101 & 4099 of 2019 in O.S.Nos.10188 & 10029 of 2010, which implies no out of Court-payment has been made by the Judgement Debtor to the Decree Holder. This implies, Order 21 Rule 11(2) has no application, and necessarily Order 21 Rule 17 also may not have an application.

5.This Court does not find any merit in these Civil Revision Petitions and they are accordingly, dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

6.The learned counsel for the Revision Petitioners submitted that the Judgement Debtors would be ready to pay the entire decretal sum in both the EPs from which both these CRP's arise within a period of four(4) weeks from today and that he needs a detailed statement of account from the Decree Holder to enable him to organize payment of the balance decree amount, if any. This statement appears fair to the Court.

7.If the amounts are so deposited, then the Execution Court may also hold an enquiry as to the actual balance amount payable by the Judgment Debtor as per E.P.No.4101 & 4099 of 2019 filed respectively in O.S.Nos.10188 & 10029 of 2010. If however, the decree holder fails to deposit any such amount as promised to be deposited today, on or before the date herein stipulated, the Execution Court is at liberty to proceed with the Execution Proceedings as per law.

8.The learned counsel for the Revision Petitioner is also required to communicate a copy of this order to the learned counsel for the Decree Holder forthwith. The decree holder if is aggrieved by this order, he can approach this Court.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Tsg



To

The IX Assistant City Civil Judge,
The IX Assistant City Civil Court
Chennai.

+2ccs to Mr.Waraon & Sai Rams, Advocate Sr.No.16803,
16804 (14/03/2022)

CRP (NPD) Nos.700 & 701 of 2022

RGN (CO)
SP (11/03/2022)