



C.R.P.(NPD) No.871 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD) No.871 of 2022

A.N.Vijaykumar ... Petitioner Decree holder / Petitioner

Vs.

R.Kaviraj ... Respondent / Judgment Debtor /
Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 01.03.2022 passed in E.A.No.4/2021 in E.P.No.4562/2019 on the file of X Assistant City Civil Court, Chennai, by allowing the revision.

For Petitioner : Mrs.Chitra Sampath
Senior Counsel
Assisted by Mr.T.S.Baskarab
For Respondent : Ms.R.Chitra

ORDER

This revision is preferred by the plaintiff, who now challenges the order of the Execution Court in E.A.No.4/2021 in E.P.No.4562 of 2019 in O.S.No.6856/2011 on the file of the X Assistant City Civil Court, Chennai.



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2. The revision petitioner has laid a suit for recovery of certain sum of money, and also obtained an order of attachment before judgment on the first floor and the terrace portion of a certain building, which as per the application taken out for the purpose, originally bears the Door No.1/105, then Door No.154 and currently Door No.68. There is no confusion as to the identity of the property attached. The decree subsequently came to be passed, and the execution petition is laid for sale of the property. And for the said purpose, the execution order and sale papers were made available by the plaintiff, by which time, the Execution Court insisted the plaintiff / decree holder / revision petitioner for production of property tax, register extract etc., After procedural difficulty, this was made available, which shows that the property that was sought to be sold bears Door No.154. Therefore, the plaintiff took out an application in E.A.No.4/2021 for correcting the door number as 154/2 in the schedule of property in the execution petition. This was dismissed by the Execution Court on the ground that the plaintiff ought to apply for correcting the door number in the decree passed in the suit. This is under challenge.

3. Heard both sides. What the Execution Court appears to have missed is



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that, the suit is for money, and that it is not going to have any schedule of property in it. The attachment before judgment is made in a supplementary proceedings, and the property attached is brought to sale in the process of executing the money decree. Therefore, the Execution Court is clearly in error insisting the decree holder to apply for correcting the decree.

4. In fine, this Court allows the revision, sets aside the order of the Execution Court in E.A.No.4/2021 in E.P.No.4562/2019 in O.S.No.6856/2011. No costs. The revision petitioner is now required to carry out necessary correction of the door number in the schedule of property to the execution petition.

05.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

To:

The X Assistant City Civil Judge, Chennai.



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N.SESHASAYEE.J.,

ds

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