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C.R.P.(PD)No.890 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM:

THE HON'BLE MR. JUSTICE K.KUMARESH BABU

C.R.P.(PD)No.890 of 2013

K.Jeyaram

...Petitioner

Vs.

N.Shanmugam

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, against the order of the District Munsif Court at Gopichettipalayam dated 04.10.2012 in E.P.No.66 of 2010 in O.S.No.57 of 2008.

For Petitioner : Mr.P.Valliappan

For Respondent : Sole respondent - No appearance

ORDER

The above revision petition has been filed challenging the order made in E.P.No.66 of 2010 in O.S.No.57 of 2018 wherein the petitioner had filed an application under Order 21 Rule 2(2) for recovery of decretal amount failing which to imprison the respondent in civil prison. The same was resisted by the respondent stating that he has been ill for the past 20 years, he has no means and hence sought the Court below to reject the plaint.



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2. Heard learned counsel for the petitioner. Name of the respondent has been printed in the cause list and no one had entered appearance on his behalf.

3. In support of his petition, the petitioner has examined himself as PW1 and has examined two other independent witnesses. He had also marked a document viz., the Register of Contractors maintained by Thookunaickenpalayam Panchayat. The proper reading of the deposition of the witnesses would categorically reveal that there was no evidence as to the net-worthiness of the respondent as claimed by the petitioner.

4. PW2 had deposed that during the period 2008 – 2011, the respondent did not perform any contract and during the said period no amount has been paid to him by the department.

5. PW3 even though in his proof affidavit as claimed to be workman under the respondent, he had not produced any evidence to substantiate he was a workman under the respondent and that the respondent has been continuously engaging himself as a building contractor. He has admitted that he had not produced any documentary evidence to substantiate or support his case during chief examination. There was also no evidence to prove that the respondent had owned properties. The petitioner had not by way of substantial evidence proved that the respondent is a man



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of means and he is evading to pay the amount.

6. The Court below has rightly concluded that the petition filed by the petitioner

to arrest and detention of the respondent would not be maintainable. Hence, this

Civil Revision Petition fails and is dismissed. No costs.

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Index: Yes/No

Speaking Order/Non-Speaking Order

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To

The District Munsif Court at Gopichettipalayam.



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K.KUMARESH BABU, J.

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