



CRP.(PD)No.1438/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P.(PD)No.1438 of 2022
and C.M.P.No.7442 of 2022

C.P.S.Charumathy,
D/o.C.P.Sathyanarayanan

... Petitioner

Vs.

K.S.Vimaleswaran
S/o.K.S.Santhanakrishnan

...Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed in E.P.No.13 of 2022 on the file of the Principal Family Court, Chennai, dated 05.04.2022.

For Petitioner : T.C.S.Raja Chockalingam

For Respondent : Mrs.Sudha Ramalingam for Caveator

**ORDER**

The revision petitioner herein is the wife of the respondent, in which she had obtained an order of interim alimony. To enforce the said order she had taken out E.P.No.13 of 2022. The respondent was also arrested and brought before the Court. The learned Family Court Judge then perused the entire papers to find that the respondent was arrested without even a warrant issued by the Court. Therefore, it let the respondent go. Upto this point, the learned Family Court Judge cannot be found fault with. What he does thereafter is, after recording whatever that this Court has stated above, he proceeded to close the E.P. It is this part of the order that is now in challenge in this Revision.

2.Heard both sides.

3.While this Court appreciates the Family Court Judge for being cautious when the respondent was brought before the Court and took the pain to peruse the papers to realise that he was before the Court without the warrant of the Court. However, after letting the respondent go on the day that he was brought before the Court by the bailiffs, he ought to have kept alive the



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Execution Petition and heard the respondent, if he desires to be heard and then ought to have proceeded with the Execution Petition.

4.The order of the Family Court therefore necessarily requires an intervention. Accordingly, this Court sets aside only that portion of the order of the Family Court dated 05.04.2022, in which it closes the Execution Petition. To clarify, this Court does not interfere with the order of letting the respondent go since his arrest was without a warrant of the Court but only deals with the order closing the Execution Petition.

5.Since both sides are before the Court, this Court directs the learned Family Court Judge to revive the Execution Petition and post the matter before it on 04.05.2022. The Family Court itself believes that the respondent /Judgment debtor ought to have been issued notice. Since the respondent had appeared before the Court, this is adequate enough notice to the respondent. The respondent is now required to file his counter, if any, and if he is desirous of

N.SESHASAYEE, J.,



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contesting the Execution Petition on 04.05.2022. The Execution Court is now required to dispose of the same as early as possible.

6. With the above direction, the Civil Revision Petition is disposed of at the admission stage itself. Consequently, the connected miscellaneous petition is closed. No costs.

25.04.2022

Index : Yes/No
Speaking Order/Non Speaking Order

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Note: The Registry is directed to issue order copy today

To

The Principal Family Court,
Chennai.

C.R.P.(PD)No.1438 of 2022
and C.M.P.No.7442 of 2022