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C.R.P. (NPD) No.1458 of 2022
and C.M.P. No.7532 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (NPD) No.1458 of 2022
and C.M.P. No.7532 of 2022

Venkatesan

...

Petitioner /
Defendant

versus

R.Anbazhagan

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 28.02.2022 made in E.A.No.10 of 2022 in E.P.No.27 of 2020 in O.S.No.20 of 2019 on the file of the Principal Subordinate Court, Tindivanam.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.R.Karunagaran



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ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Principal Subordinate Judge, Tindivanam, dated 28.02.2022 made in E.A.No.10 of 2022 in E.P.No.27 of 2020 in O.S.No.20 of 2019.

2. The revision petitioner is the judgment debtor / defendant in O.S.No.20 of 2019. The respondent/plaintiff has filed the suit for the relief of recovery of money and the suit was decreed on 05.04.2019 and thereafter, execution proceedings were taken in E.P.No.27 of 2020 and in the said petition also the judgment debtor did not file any counter and hence, he was set *ex parte* on 27.01.2021. Hence, the order for attaching the salary of the petitioner was passed. Thereafter, the petitioner has filed a petition to set aside the *ex parte* order passed in the execution proceedings and the same was dismissed. Aggrieved over that, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner submitted that the petitioner has already filed a petition to set aside the *ex parte* order and the



same is pending and hence, the *ex parte* order passed in the Execution

Petition should also be set aside in order to give the revision petitioner an opportunity to contest the execution proceedings.

4. The learned counsel for the respondent submitted that this is a wanton attempt made by the petitioner to protract the proceedings and the learned trial Judge is right in dismissing the petition.

5. It is seen from the records that the revision petitioner has stated in his affidavit that after the suit was decreed he approached the respondent and paid a part of decree amount of Rs.50,000/- and sought further time to pay the balance amount. It is the submission of the revision petitioner that the respondent agreed for negotiation and assured to withdraw the proceedings and only because of that he did not file the written statement.

6. In fact, this petition filed to set aside the *ex parte* order in the Execution Petition is also not preferred within a period of 30 days.



And this petition is filed after a delay of one year. The learned trial Judge has given repeated adjournments for filing counter. Since the revision petitioner is not diligent enough to conduct the execution proceedings, he was set *ex parte*.

7. Since the salary of the revision petitioner is attached and towards realising the decree amount the proceedings cannot be delayed further for some superficial reasons stated by the petitioner. Hence, I do not find ground for interference.

8. Accordingly, this Civil Revision Petition is dismissed and the order dated 28.02.2022 passed by the learned Principal Subordinate Judge, Tindivanam in E.A.No.10 of 2022 in E.P.No.27 of 2020 in O.S.No.20 of 2019 is hereby confirmed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

29.06.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri



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To

The Principal Subordinate Court,
Tindivanam.



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R.N.MANJULA, J.

sri

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