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C.R.P (NPD).No.1784 of 2022 and
C.M.P.No.9008 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

C.R.P (NPD).No.1784 of 2022 and
C.M.P.No.9008 of 2022

Thiru.T.V.Venkatasamy Chettiar

... Petitioner

Vs.

Thiru K.Ayyadurai

... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 23.04.2022, passed by the learned District Judge No.II at Kancheepuram, directing to test the immovable property by 03.06.2022 and to pay the test batta in a week in E.P.No.95 of 2019 in O.S.No.46 of 2014, filed by the respondent / Decree Holder to execute the decree dated 12.12.2018 passed in O.S.No.46 of 2014.

For Petitioner : Mr.T.M.Pappiah for
Mr.Duraikkan S.Phillip

For Respondent : S.Jayakumar

ORDER

This civil revision petition has been filed to set aside the docket order dated 23.04.2022, passed by the learned District Judge No.II at Kancheepuram, directing to test the immovable property by 03.06.2022 and to



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pay the test batta in a week in E.P.No.95 of 2019 in O.S.No.46 of 2014, filed by the respondent / Decree Holder to execute the decree dated 12.12.2018 passed in O.S.No.46 of 2014.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner is a judgment debtor / defendant. The respondent / Decree Holder has filed a execution proceedings in E.P.No.95 of 2019 to execute the decree got in his favour dated 12.12.2018 in O.S.No.46 of 2014. The impugned order has been passed during the execution proceedings on 23.04.2022, by which, the learned Executing Judge ordered “*test*”.

4. During the pendency of this civil revision proceedings, the learned counsel for the revision petitioner submitted that the parties worked out a settlement between themselves and through which, the respondent agreed to receive Rs.1,00,000/- towards discharge of decree amount on or before 10th of every month.



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5. Hence, it is open to the parties to make their appearance before the Executing Court and file a joint memo along with the schedule of payment and get appropriate orders from the Executing Court itself, in order to enable them to make payment in accordance with the schedule. Hence, I feel it is appropriate to remand the proceedings to the Executing Court itself.

6. Accordingly, this civil revision petition stands disposed of and the docket order dated 23.04.2022 in E.P.No.95 of 2019, passed by the learned District Judge No.II, Kancheepuram, is set aside. The matter is remanded back to the Executing Court and the Executing Court shall allow the parties to file the payment schedule and allow the parties to make payment as per the payment schedule. This will not take away the powers of the Court from passing further orders, in case there is any default in payment. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2022

Index: Yes/No
Speaking / Non Speaking Order
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R.N.MANJULA, J

gsk

To
The District Judge No.II,
Kancheepuram.

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20.06.2022