



C.R.P.(NPD)No.1971 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1971 of 2022

and

C.M.P.No.9983 of 2022

R.Anbazagan

...Petitioner

.. Vs..

1. K.S.Raju Achari

2. R.Arivukkodi

3. R.Arivarasu

... Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order passed in E.P. No.128 of 2017 in O.S.No.17 of 2011 dated 31.08.2021 on the file of the Principal Sub Judge, Vellore.

For Petitioner : Mr.V.Lakshminarayanan

ORDER

This Civil Revision Petition has been preferred challenging the fair and decretal order dated 31.08.2021 made in E.P.No.128 of 2017 in O.S.No.17 of 2011 on the file of the Principal Sub Court,Vellore.

Page No.1/6



C.R.P.(NPD)No.1971 of 2022

WEB COPY

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. The revision petitioner is one of the judgment debtors of the decree passed in O.S.No.17 of 2011. The first respondent/decreed holder is the father of the revision petitioner. In O.S.No.17 of 2011, a decree for maintenance has been passed as under :

DECREE

1.That the suit be and the same is hereby partly decree with regard to maintenance and that the defendants 1 to 3 are hereby directed to pay jointly or severally the maintenance of Rs.3,000/- per month to the plaintiff from the date of suit till the date of realization.

2.That the suit be and the same is hereby dismissed in respect of partition.

3.That the suit be and the same is hereby dismissed in respect of mandatory injunction.

4.That the defendants 1 to 3 do also pay a sum



C.R.P.(NPD)No.1971 of 2022

of Rs.6,535.50/- to the plaintiff towards costs of the suit.

5. That the 1st defendant side cost is Rs.5,105/-

6. That the 3rd defendant side cost is Rs.7,615/-."

4. The first respondent/deGREE holder has filed the execution petition in order to recover the decree amount. However, he had chosen to execute the decree against the 3rd respondent/judgment debtor alone. During the pendency of the execution proceedings, the Execution Court has passed an order of attachment on the property belonging to the revision petitioner/3rd defendant. Aggrieved over that, the petitioner has filed this revision petition.

5. The learned counsel for the petitioner submitted that, despite the decree for maintenance was passed against the three sons, who are the defendants 1 to 3 in the suit, the other defendants i.e 1 and 2 are also liable to pay the decree amount. However, the decree holder had opted to recover the decree amount only by attaching the property belonging to



C.R.P.(NPD)No.1971 of 2022

the third defendant and the order of attachment of his property is not fair.

WEB COPY

6. In the decree of the Court itself it is clearly specified that the defendants are jointly and severally liable to pay the maintenance amount of Rs.3,000/- per month to the respondent/plaintiff. Though the defendants 1 to 3 are also liable to pay the decree amount, the decree holder has exercised his option to realise the decree amount by attaching the properties belonging to either of the judgment debtors. However, the judgment debtor, who had fulfilled the decree is entitled to recover the share of the liability of the other defendants from them. As such, I find no factual or legal error in the order passed by the learned Executing Judge for attaching the property of the third defendant.

7. In the result, this Civil Revision Petition is dismissed and the fair and decretal order dated 31.08.2021 passed in E.P.No.128 of 2017 in O.S.No.17 of 2011 by the learned Principal Sub Judge, Vellore is



C.R.P.(NPD)No.1971 of 2022

WEB COPY

confirmed. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2022

Index: Yes No
Speaking Order: Yes/No
ms

To

The Principal Sub Judge,
Vellore.

Page No.5/6



WEB COPY



C.R.P.(NPD)No.1971 of 2022

R.N.MANJULA, J.

ms

**C.R.P.(NPD).No.1971 of 2022
and
C.M.P.No.9983 of 2022**

27.06.2022