



CRP.(NPD).No. 2227 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.(NPD).No. 2227 of 2019

and

CMP.No.14418 of 2019

L.G.Ravi

.. Petitioner

Versus

R.Lakshmi

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 25.03.2019 made in E.P.No.84 of 2017 in O.S.No. 2820 of 2015, on the file of Subordinate Judge, Poonamallee.

For Petitioner : Mr.J.Chandran Sundar Sashikumar

For Respondent : No Appearance



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ORDER

This Civil Revision Petition has been filed seeking to set aside the order dated 25.03.2019 made in E.P.No.84 of 2017 in O.S.No. 2820 of 2015, on the file of Subordinate Judge, Poonamallee.

2. The revision petitioner herein is the Plaintiff/Decree Holder and the respondent herein is the Defendant/Judgment Debtor in the original suit as well as execution proceedings.

3. The revision petitioner/plaintiff/Decree Holder filed the suit in O.S.No.2820 of 2015 before the learned XIV Assistant Judge, City Civil Chennai, Poonamallee, for recovery of Rs.4,25,000/- against the respondent/defendant/Judgment Debtor under Order XXXVII Rule 2 of CPC. After perusing the materials, the trial Court passed the judgment and decree dated 01.03.2017 in favour of the revision petitioner, against which, the revision petitioner has filed E.P.No.84 of 2017 before the learned Subordinate Judge, Poonamallee, under Order 21 Rule 37 of CPC.,



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to realize the decree amount with prayer for arrest and the same was dismissed by order dated 25.03.2019. Challenging the impugned order passed by the Executing Court, the present revision is filed before this Court.

4. The learned counsel for the revision petitioner argued that the respondent/Judgment Debtor already filed a petition seeking leave to defend the suit before the trial Court and the same was dismissed. Therefore, the revision petitioner is entitled to file Execution Petition for realization of the debt amount before the Executing Court either for arrest or to attach and sell with regard to movable or immovable properties of the Judgment Debtor. Hence, he prays to allow this revision.

5. By way of reply, the learned counsel for the respondent/defendant/Judgment Debtor argued that the revision petitioner is not entitled to execute the decree by order of arrest for non payment since the respondent being a woman, as per Section 56 of CPC. As per Section 56 CPC, court shall not order the arrest or detention in the civil prison of a woman. Thereby the trial Court has rightly dismissed the



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Execution Petition. Therefore, he prays to dismiss the above revision.

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6. On a perusal of the records, it is seen that the petitioner/Decree Holder filed the suit in O.S.No.2820 of 2015 before the XIV Assistant Judge, City Civil Court, Chennai, for recovery of money and got decree in his favour. Thereafter, the petitioner filed E.P.No.84 of 2017 under Order 21 Rule 37 of CPC., to realize the decree amount before the learned Subordinate Judge, Poonamallee, with prayer of arrest, as the Judgment Debtor was woman, the same was dismissed on 25.03.2019 by relying the provision of Section 56 CPC. Challenging the same, the petitioner filed this revision.

7. The contention of the revision petitioner is that he could not trace the respondent/Judgment Debtor's movable or immovable properties for realizing the debt amount and no such Civil Revision Petition has been filed by the respondent/Judgment Debtor before this Court against the order of dismissal for leave to defend the suit. But the contention of the respondent/Judgment Debtor is that since the respondent being a woman, under Section 56 of CPC., an order of arrest or detention in civil prison cannot be ordered by the Executing Court. But as per submission made by



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revision petitioner, he is intended to execute the decree by attaching movable or immovable properties of the Judgment Debtor.

8. Accordingly, the Civil Revision Petition is ordered. It is open to the petitioner/plaintiff/Decree Holder to proceed with the case before the Executing Court in respect of movable or immovable properties of the Judgment Debtor, if any. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

08.11.2022

msm

Index : Yes/No

Speaking Order : Yes/No

To

1. The Subordinate Judge,
Poonamallee.
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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