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C.R.P.(PD).No.2206 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.07.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.(PD).No.2206 of 2022

and

C.M.P.No.11426 of 2022

R.Vijayaraghavan

. . . Petitioner

Versus

M/s.Sree Gokulam Chit & Finance
Company Private Ltd,
No.49, Arcot Road,
Kodambakkam, Chennai – 600 024.

. . . Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 22.04.2022 passed in E.A.No.179 of 2021 in E.P.No.98 of 2013 on the file of the Sub Court, Tambaram.

For Petitioner : Mr.Ravi Kumar Paul
for M/s.Paul and Paul



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ORDER

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This Civil Revision Petition has been preferred challenging the fair and decretal order dated 22.04.2022 passed in E.A.No.179 of 2021 in E.P.No.98 of 2013 by the learned Subordinate Judge, Tambaram.

2. The revision petitioner is the second judgment debtor against whom a decree for recovery of money was passed in the suit filed by the respondent/decreed holder. Pending the execution proceedings, the second judgment debtor filed a petition in E.A.No.179 of 2021 to reduce the subsequent interest from 18% to 6% and the said petition was dismissed. Aggrieved over the same, the petitioner has preferred the present revision petition.

3. The learned counsel for the revision petitioner submitted that the provisions under Section 34 of Code of Civil Procedure would clearly state that subsequent interest should be only at the rate of 6% per annum, but the trial Court has imposed the interest at 18% per annum. It is further submitted that the respondent themselves are willing to give some



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concession in the interest, but the learned Executing Judge had dismissed the petition.

4. No doubt, the subsequent interest fixed at 18% per annum form part of the decree. The Execution Court cannot decide about the merits of the decree and an appropriate remedy for judgment debtor is to prefer an appeal. If this revision petitioner is confident that the decree holder himself has considered the interest portion by giving some concession, it is up to him to work out, out of Court settlement and satisfy the decreed amount. For which the Execution Court would not stand in the way. But the revision petitioner cannot insist the Executing Court to change the rate of interest contrary to the terms of the decree and that is beyond the jurisdiction of the Executing Court. The learned Executing Judge has rightly dismissed the petition. I find no grounds for interference.

5. In view of the above, this Civil Revision Petition is dismissed and the order dated 22.04.2022 passed in E.A.No.179 of 2021 in



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E.P.No.98 of 2013 by the learned Subordinate Judge, Tambaram. is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes No
Speaking Order:Yes/No
ms

To

The Subordinate Judge,
Tambaram.



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R.N.MANJULA, J.

ms

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