



CRP(PD)(MD)No.1347 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(NPD)(MD)No.1347 of 2022
and
C.M.P(MD).No.5590 of 2022

Kannan

... Revision Petitioner

versus

State Bank of India
Thuraiyur Branch
through Principal Manager

... Respondent

Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the order dated 11.01.2022 passed by the learned Sub-ordinate Judge, Thuraiyur in E.P.No.36 of 2020 in O.S.No.302 of 2016.

For Petitioner : Mr.S.Kanagarajan

For Respondent : Mr.T.Govindasamy



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ORDER

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This Civil Revision Petition has been filed as against the order dated 11.01.2022 passed by the learned Subordinate Judge, Thuraiyur in E.P.No. 36 of 2020 in O.S.No.302 of 2016

2. The petitioner herein is the judgment debtor. The said E.P.No.36 of 2020 was filed by the decree holder after the judgment passed in O.S.No. 302 of 2016 by the learned Subordinate Judge, Thuraiyur.

3. The learned counsel appearing for the petitioner submits that the respondent has failed to prove the means of the petitioner by adducing sufficient and documentary evidence. After borrowing the loan from the decree-holder, the petitioner has paid a sum of Rs.20,000/-. However, the same has not been properly accounted by the decree-holder. The petitioner is a junior most advocate and the survival of the petitioner is questionable one. As per Order 21 Rule 40(2) C.P.C, the Execution Court did not afford any opportunity to the petitioner to furnish security. Hence, the order passed by the learned Sub-ordinate Judge, Thuraiyur in E.P.No.36 of 2020 in



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O.S.No.302 of 2016 dated 11.01.2022, is liable to be set aside.

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4. The learned counsel appearing for the respondent submits that the petitioner has borrowed a sum of Rs.3,72,644/- from the respondent for purchase of Mix Well Construction Equipment in the year 2013, however, he has failed to make the said payment. Even before the trial Court, the petitioner has given an assurance that he would pay a sum of Rs.3,00,000/- within a stipulated time. Based on his assurance, the matter was referred to Lok Adalat and the respondent has also waived a sum of Rs.80,000/- from the interest amount. Even thereafter, the petitioner has not paid the amount so far. Therefore, the respondent was constrained to file the Execution Petition before the trial Court. After considering the conduct of the petitioner, the trial Court has allowed the Execution Petition filed by the respondent.

5. This Court considered the rival submissions made on behalf of both parties and perused the materials available on record.



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6. It is seen from the records that the petitioner has availed loan from the respondent Bank for a sum of Rs.3,72,644/- for purchase of Mix Well Construction Equipments, however, he did not remit the same. Therefore, the respondent has filed a suit in O.S.No.302 of 2016 before the Subordinate Court, Thuraiyur against the petitioner. Thereafter, based on the request of the petitioner, the matter was referred to the Lok Adalat. On 14.07.2018, the petitioner has appeared before the Lok Adalat and gave an assurance that he would pay a sum of Rs.1,50,000/- on or before 20.09.2018 and a further sum of Rs.1,48,000/- on or before 20.11.2018. In fact, the respondent has waived a sum of Rs.80,000/- from the interest amount, however, the petitioner has not paid any amount so far. Hence, this Court is not inclined to interfere with the order dated 11.01.2022 passed by the learned Subordinate Judge, Thuraiyur in E.P.No.36 of 2020 in O.S.No.302 of 2016.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Connected miscellaneous petition is closed.

06.07.2022

ssb



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Index : Yes / No
Internet: Yes / No

To

Sub-ordinate Court, Thuraiyur.



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B.PUGALENDHI, J.

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