



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

THE HON'BLE MRS.JUSTICE S.ANANTHI

C.R.P(MD) No.646 of 2020

WEB COPY

1.T.Rathinam
2.R.Ganeshan

...Revision Petitioners/Petitioners

Vs.

R.Selvam

...Respondent/Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records in E.A.No.111 of 2019 in E.P.No.555 of 2018 in O.S.No.330 of 2011, dated 18.03.2020 on the file of the Principal Additional Sub Court, Madurai and to set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.P.Paranthaman

ORDER

The Civil Revision Petition has been filed to set aside the order in E.A.No.111 of 2019 in E.P.No.555 of 2018 in O.S.No.330 of 2011, dated 18.03.2020 on the file of the learned Principal Additional Sub Judge, Madurai.

2.The learned counsel for the revision petitioners submitted that the respondent/plaintiff has filed a suit in O.S.No.330 of 2011 for recovery of mortgage amount, in which preliminary decree was passed on 09.01.2012 and subsequently, the final decree was passed on 10.08.2015 in I.A.No.79 of 2013 in O.S.No.330 of 2011. Thereafter, the respondent has filed E.P.No.130 of 2016 to recover a sum of Rs.3,28,230.50/- and the same was closed and then, he filed E.P.No.555 of 2018 in O.S.No.330 of 2011 to recover a sum of Rs.30,827.50/-, which was ''dismissed as not pressed'' by the learned Principal Subordinate Judge, Madurai. Hence, the revision petitioners/defendants have filed E.A.No.111 of 2019 in E.P.No.555 of 2018 in O.S.No.330 of 2011, to discharge the mortgage deed, dated 24.09.2009 and the same was dismissed as infructuous. Aggrieved by the said order, the revision petitioners have filed this Civil Revision Petition.

3.Perusal of records show that the revision petitioners/defendants have filed E.A.No.111 of 2019 in E.P.No.555

<https://hcservices.ecourts.gov.in/hcservices/>



of 2018, which was dismissed as infructuous. But they have paid the entire amount. Since the entire amount paid by the revision petitioners, the said E.A.No.111 of 2019 in E.P.No.555 of 2018 has to be decided on merits. If any amount is pending due, the respondent/plaintiff can concede in E.A.111 of 2019 before the trial Court.

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4.In view of above, this Civil Revision Petition is allowed. The order made in E.A.No.111 of 2019 in E.P.No.555 of 2018 in O.S.No.330 of 2011, dated 18.03.2020 passed by the learned Principal Additional Sub Judge, Madurai, is hereby set-aside. The learned Principal Additional Sub Judge, Madurai is directed to dispose of the said case within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Principal Additional Sub Judge,
Madurai.

+1 CC to M/s.P.PARANTHAMAN, Advocate (SR-6869[F] dated 17/02/2022)

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RD(15.03.2022) 2P 3C