



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD)Nos.1290 of 2021

and

C.M.P. (MD)No.7453 of 2021

Ramachandran ... Petitioner/Respondent/Defendant
-vs-

T.Edwin Antony Singh ... Respondent/Petitioner/Plaintiff

Prayer :- Petition filed under Section 115 of the Civil Procedure Code, to allow the above civil revision petition and consequently set aside the order made in E.P.No.23 of 2020 dated 10.08.2021 in O.S.No.229 of 2016 on the file of the I Additional Subordinate Judge, Nagercoil, Kanyakumari District.

For Petitioner : Mr.S.Palani Velayutham

For Respondent : Mr.M.Ashok Padmaraj

ORDER

This civil revision petition is filed by the judgment debtor challenging order passed in E.P.No.23 of 2020 dated 10.08.2021.

2.It is the case of the revision petitioner that pursuant to the decree in O.S.No.229 of 2019, he had filed the first appeal with the delay. The filing of the first appeal was brought to the notice of the Executing Court. Though the delay petition had been dismissed, he had filed the revision before this Court and this Court had granted an order of interim stay of all further proceedings. While so, the filing of the Execution Petition was premature and the order of attachment passed was without jurisdiction, particularly, when the matter was sub-judice in appeal. The petitioner would, therefore, submit that the order dated 10.08.2021 passed by the Executing Court ordering attachment, has to be set aside.

3.Heard the learned counsel appearing on either side and perused the records.



4.The Execution petition in E.P.No.23 of 2020 has been filed to execute the decree in O.S.No.229 of 2016 on the file of the learned I Additional Subordinate Judge, Nagercoil, Kanyakumari District. The suit had been decreed against the revision petitioner and the revision petitioner has filed an appeal with the delay over 597 days. This petition has been dismissed, against which, the revision petitioner had come forward with the revision in CRP(MD) No. 609 of 2020. This revision is also dismissed today. This Court had granted interim stay on condition that the petitioner should deposit 50% of the decree amount within a period of four weeks. The revision petitioner has not complied with the said condition. Therefore, there was no stay in favour of the petitioner and accordingly, the Executing Court had executed the decree by order of attachment. No exception can be taken to the said order and considering the fact that the petitioner has not even complied with the conditional order of stay, the order attachment of property is correct, which does not warrant any interference.

5.In the result, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

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 I Additional Subordinate Judge,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.M.ASHOK PADMARAJ, Advocate (SR-2481[F] dated 25/01/2022)

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TR(17.02.2022) 2P 3C

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