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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.4082 of 2023
and C.M.P.No.24975 of 2023

G.Madhusudhanan

... Petitioner

Vs.

1.P.Vitta Bai

2.The Collector of Madras

Collector Office, Chennai-600 001.

... Respondents

PRAYER: Civil Revision Petition filed Under Section 115 of Civil Revision Petition, against the order passed in E.P.No.2059 of 2018 in O.S.No.12898 of 2009, on the file of the XXVIII Assistant City Civil Court, Chennai, dated 24.08.2022.

For Petitioner : Mr.K. Venkateswaran

ORDER

The petitioner has filed this petition to set aside the order passed in E.P.No.2059 of 2018 in O.S.No.12898 of 2009, on the file of the XXVIII



Assistant City Civil Court, Chennai, dated 24.08.2022.

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2. Before the trial Court the 1st respondent herein / plaintiff has filed a suit O.S.No.12898 of 2009, for recovery of money against the revision petitioner and another defendant. In the said suit ex-parte decree was passed against him. Accordingly the suit was allowed and directing the defendants to pay as sum of Rs.4,20,000/- together with interest at 30 % per annum for the principle amount of Rs.2,00,000/-. To execute the said decree the plaintiff has filed E.P.No.2059 of 2018 in O.S.No.12898 of 2009. In the execution proceedings the 1st defendant appeared and submitted his counter objections. But the Executing Court has not accepted the claim of the 1st defendant stating that already in CRP proceedings directed to pay the amount, but it was not complied. Therefore, to realise the decree amount, order of arrest was passed. Challenging the said order, the revision petitioner has preferred this revision.

3. The learned counsel for the revision petitioner submitted that the plaintiff is a close relative, all the days they were taking steps to settle the issue. He further submitted that he has met loss in the business and not able



to pay any amount, moreover the salary of his wife also attached in other proceedings. Hence, he prayed opportunity to contested the case before the trial Court.

4. Considering the facts and circumstances, this Court is inclined to give one more opportunity to the revision petitioner. The findings given by the learned trial Judge is set aside and the petitioner is ordered to deposit a sum of Rs.25,000/- as a part of the decree amount to the credit of E.P.No. 2059 of 2018, within a period of two weeks from the date of receipt of a copy of this order. On such deposit, opportunity is given to the revision petitioner to defend the case before the executing Court as per manner known to law.

5. Accordingly, Civil Revision Petition is ordered. Consequently connected miscellaneous petition is closed. No costs.

17.10.2023

Index : Yes/No
Speaking/Non Speaking order

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Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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To

- 1.The XXVIII Assistant City Civil Judge, Chennai.
- 2.The Section Officer,
VR-Section, High Court of Madras.

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