



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.07.2023**

CORAM

**THE HONOURABLE MR.JUSTICE V.
LAKSHMINARAYANAN**

C.R.P.(NPD).No.3487 of 2014

D.Haridas

... Petitioner

Vs

1.Suseela
2.Sooryapraba
3.Sathish
4.Malarvizhi
5.Jagadeeswari
6.Dhanaprabhu
7.Alagesan
8.Pachala Devi
9.Vanaja

... Respondents

PRAYER:-Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to under Article 227 of the Constitution of India to set aside the order in E.P.No.201 of 2013 in O.S.No.85 of 2010, dated 17.06.2014 passed by the learned Principal Subordinate Judge, Tindivanam.



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For Petitioner : Mr.R.Vijayaraghaven

For Respondent : No appearance

ORDER

The plaintiff obtained a decree for partition and maintenance. The said suit was decreed with costs. Since, costs was not deposited, E.P has been filed for recovery costs of Rs.24,419/- (Rupees Twenty Four Thousand Four Hundred and Nineteen only). Since, the costs was not paid, the learned judge had ordered arrest. For better appreciation, relevant portion of the order is extracted hereunder:-

"17.6.14

Enq.

Pet. arg hd. R Arg. hd. No appeal. No Stay

No Vehement objection. Hence arrest by 31.7.14

time 3 days."

2.The decree holder is entitled to execute the decree and unless and until the judgment debtor produces an order of stay, the Executing Court is duty bound to execute the decree as it



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stands.

3.Learned counsel would submit that 2 separate E.Ps. need not have been filed. It could have been agitated in one E.P. itself. The decree holder is not executing the same portion of the decree. In the first E.P., she is executing that portion of the decree where she has been found entitled to arrears of maintenance and in default, property had been charged. The present E.P. is for costs. Cost E.P. is in nature of money and charge E.P. could end in sale of the property. The Civil Revision Petitioner/ judgment debtor had not obtained a stay in the Appellate Court and hence, it was put into execution. There cannot be any doubt that the order of the trial Court in ordering arrest is right. Therefore, the Civil Revision is dismissed. However, there shall be no order as to costs.

06.07.2023

gba

Index: Yes/ No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

To

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The Principal Subordinate Judge, Tindivanam.

V. LAKSHMINARAYANAN

Gba

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