



C.R.P. No. 3394 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P. No. 3394 of 2023

and

C.M.P. No. 21069 of 2023

S. Muthukumar

.. Petitioner

Vs

1.Sudha @ C.R. Kavitha
2.Minor. Shobika
(Rep., by her mother and guardian
Sudha @ C.R. Kavitha)

.. Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order dated 06.07.2023 passed in E.P.No.1 of 2021 in O.S.No.59 of 2017 on the file of Sub Court, Perundurai.

For Petitioner : Mr. S. Kaithamalai Kumaran



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ORDER

This Civil Revision Petition is filed challenging the order of arrest passed in E.P. No. 1 of 2021 in O.S. No. 59 of 2017 on the file of Sub Court, Parundurai, the husband has preferred this revision.

2. To execute a maintenance claim, the respondent / wife filed E.P. No. 1 of 2021 to execute the maintenance claim, which comes around Rs.6,43,000/-. The petitioner / husband raised objection before the Executing Court stating that already his property was attached to the suit proceeding and also complying the order of maintenance in HMOP proceeding, inspite of that he was unnecessarily harassed. The trial Judge, without considering the same, ordered to arrest the petitioner / husband for non payment of the claim.

3. Challenging the same, this revision has been filed.



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4. The learned counsel for the revision petitioner submits that as an agriculturalists, he is having a meagre income and the respondent / wife unnecessarily harassing by filing applications in DVC, OP and other MC. However, the minor daughter is with the wife, who is the respondent herein. There is a maintenance in arrears of Rs.6,43,000/-. However, he is facing other proceeding besides his property also attached. Therefore, opportunity should have given to the petitioner to contest the case before the executing Court.

5. Therefore, the order passed by the executing Court in E.P.No.1 of 2021 in O.S.No.59 of 2017 on the file of Sub Court, Perundurai is hereby set aside and directing him to pay Rs.1,00,000/- (Rupees One Lakh Only) before the trial Court within four weeks from the date of receipt of copy of this order. On such deposit, the revision petitioner is permitted to contest the EP as per the manner known to law. On such deposit of Rs.1 lakh, the order passed by the executing Court is set aside and wife is also permitted to withdraw the said amount by giving undertaking affidavit.



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6. In the result, this Civil Revision Petition is disposed of.

Consequently, connected miscellaneous petition is closed. No costs.

19.10.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The Sub Court, Perundurai.



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T.V.THAMILSELVI, J.

AT

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