



C.R.P.No. 4734 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4734 of 2023

and

C.M.P.No.28094 of 2023

Kaviraj R.

... Petitioner

-Vs-

A.N.Vijayakumar

...Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution

of India, praying to set aside the fair order and decretal order dated

02.02.2023 passed by X Asst. City Civil Court, Chennai in E.A.SR.No.592

of 2023 in E.P.No. 4562 of 2019 in O.S.N. 6856 of 2011 and allow this

C.R.P.

For Petitioner : Mr.N.Vargees Amalraja for
Mr.M.Elumalai

For Respondent : Mr.T.S.Baskaran



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ORDER

Challenging the impugned order passed in E.A.SR.No.592 of 2023 in E.P.No. 4562 of 2019 in O.S.No. 6856 of 2011 passed by the learned X Asst. Judge, City Civil Court, Chennai, the Revision Petitioner/Judgment Debtor preferred this Civil Revision Petition.

2. Today, when the matter taken up for hearing, the learned counsel for Revision Petitioner would submit that he is a representing counsel for the counsel on record and submitted that the original counsel, who has filed this Revision Petition is not available in town. Hence, he seeks time. But, the learned counsel for respondent/decreed holder, who is caveator's counsel appeared on the notice served on him and he submitted his objections stating that as a decreed holder, he initiated execution proceedings in E.P.No.4562 of 2019 seeking for attachment and sale of the property to execute the decree passed in O.S.No.6856 of 2011 against the petitioner/judgment debtor. Though the Revision Petitioner filed an application under Sec.47 of C.P.C. challenging the execution of decree, at the SR stage itself, that application was dismissed by the executing court.



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Aggrieved over the same, the Revision Petitioner/judgment debtor preferred this Civil Revision Petition.

3. By way of reply, the learned counsel for respondent would submit that during the pendency of proceedings, challenging the upset price fixed by the trial judge, the revision petitioner/judgment debtor preferred a Civil Revision Petition before this court in C.R.P.No. 3156 of 2023 and in that Revision Petition, the decree holder also appeared. At that time, the Judgment Debtor gave an undertaking to deposit a sum of Rs.10 lakhs and also agreed to repay the remaining E.P. amount. To prove the same, the copy of order passed in said Revision Petition was produced by the respondent. Accordingly, he prayed to dismiss this Civil Revision Petition as it is a clear abuse of process of law.

4. Records perused. On perusal of the order passed in C.R.P.No.3156 of 2023, it reveals that already the Revision Petitioner/Judgment Debtor gave an undertaking before this court to pay the part of decree amount and also agreed to pay remaining balance E.P. amount, but so far, the said undertaking has not been complied with. Now,



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contrary to the undertaking given by him in the said Revision Petition, the filing of another Civil Revision Petition is amounting to clear abuse of process of law. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

21.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The X Asst. Judge,
City Civil Court,
Chennai



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T.V.THAMILSELVI, J.

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