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C.R.P(MD)No.204 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.204 of 2023

and

C.M.P(MD)No.1010 of 2023

and

C.M.P(MD)No.8997 of 2023

P.Raja Samuvel

... Petitioner/1st Respondent
1st Defendant

Vs.

1.Venkatesan

...1st Respondent/Petitioner/
Plaintiff

2.The Secretary,
Sokkalal Higher Secondary School
Mukkudal
Tirunelveli.

... 2nd Respondent/Garnishee
2nd Defendant

Civil Revision Petition is filed under Article 227 of the Civil Procedure Code, to call for the records pertaining to fair and decreetal order dated 02.09.2022 passed in E.P.No.31 of 2020 in O.S.No.105 of 2011 on the file of the Subordinate Judge, Ambasamudram and set aside the same.

For Petitioner
For R1

:Mr.M.E.Ilango
:Mr.N.Jeyaram Sidharth



ORDER

The Civil Revision Petition is filed for and decretal order dated 02.09.2022 passed in E.P.No.31 of 2020 in O.S.No.105 of 2011 on the file of the Subordinate Judge, Ambasamudram.

2. According to the revision petitioner, the first respondent filed an execution petition under Order 21 Rule 48 C.P.C., seeking to execute the judgment and decree passed in O.S.No.105 of 2011, dated 26.10.2016, in which, an order was passed by the Executing Court directing the second respondent/Garnishee to attach the salary of the first respondent to the tune of Rs.29,194/- per month. Further, Order 21 Rule 48 as per C.P.C., provides only salary of the Government or railway company or local authority employers can be attached. The trial Court, without considering the fact that the petitioner is not a Government employee, has erroneously passed an order in E.P. Further, the second respondent is a Private School governed by the provisions of the Tamil Nadu Private School (Regulations) Act, 1976 and they will not fall under the definition of “appropriate Government” as defined in Order 21 Rule 48 of C.P.C. Therefore, the petitioner will not come under the ambit of the servant of the Government and he is only an employee of the second respondent and his services were regulated only by the Tamil Nadu Private School (Regulations) Act, 1976. Hence, he filed the



present civil revision petition for setting aside the order passed in E.P.No.31
of 2020.

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3.During the course of argument, it is submitted that the entire decretal amount is paid by the principal debtor and therefore, there is no necessity to attach the salary of the petitioner herein. The same is also accepted on the side of the respondents. In this regard, the first respondent has also filed a memo before the Executing Court.

4.In view of the above, the order dated 02.09.2022 passed in E.P.No. 31 of 2020 in O.S.No.105 of 2011 by the Subordinate Judge, Ambasamudram, is hereby set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07.08.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Subordinate Judge,
Ambasamudram.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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