



C.R.P.(MD)No.3336 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3336 of 2023
and
C.M.P.(MD)No.17232 of 2023

M.K.Muthukumaran : Petitioner/Petitioner/Respondent/
Defendant

Vs.

S.Muthupandi : Respondent/Respondent/ Petitioner/
Plaintiff

Prayer : This Civil Revision Petition filed under Section 115 of C.P.C., to set aside the fair and ex-order in E.A.No.2 of 2023 in E.P.No.86 of 2022 in O.S.No.298 of 2018, dated 03.11.2023 on the file of the VI Additional District Court, Madurai.

For Petitioner : Mr.R.Ponkarthikeyan

For Respondent : Mr.C.Mayilvahana Rajendran

ORDER

The Civil Revision Petition is directed against the order passed in E.A.No.2 of 2023 in E.P.No.86 of 2022 in O.S.No.298 of 2018, dated



C.R.P.(MD)No.3336 of 2023

03.11.2023 on the file of the VI Additional District Court, Madurai, dismissing the petition filed under Order 21 Rule 26 of C.P.C to stay the execution proceedings in E.P.No.86 of 2022 for a period of six months.

2. It is evident from the records that the respondent has filed the suit in O.S.No.298 of 2018 for recovery of Rs.1,25,00,000/- with interest and costs due on the cheque and that since the revision petitioner remained ex-parte, ex-parte decree came to be passed on 16.10.2019; that the decree holder has then filed an execution petition in E.P.No.86 of 2022; that the revision petitioner has entered appearance and filed counter in the execution petition, that the Executing Court, after conducting enquiry, has passed an order, dated 21.09.2023 for sale and that subsequently, he has filed an application in E.A.No.1 of 2023 to reopen the case and the same was ordered to be dismissed.

3. It is not in dispute that the revision petitioner has filed another application in I.A.No.1 of 2023 to condone the delay in filing the application for setting aside the ex-parte decree passed on 16.10.2019 and the same is pending. The Executing Court has specifically observed that



C.R.P.(MD)No.3336 of 2023

though the decree came to be passed on 16.10.2019, the judgment debtor has not chosen to pay any amount till now nor taken any steps for setting aside the ex-parte decree immediately as he has filed application under Section 5 of Limitation Act in 2023.

4. It is pertinent to note that at the instance of the decree holder, this Court vide order, dated 15.02.2023 directed the Executing Court to proceed with enquiry and disposed of the execution petition on or before 03.11.2023.

5. Considering the entire facts and circumstances of the case, the Executing Court, by observing that the above petition has been filed only to protract the proceedings and to prevent the sale proceedings, has rightly dismissed the petition. Hence, this Court is not inclined to interfere with the impugned order passed by the trial Court. Consequently, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable to be dismissed.



C.R.P.(MD)No.3336 of 2023

6. In the result, the Civil Revision Petition is dismissed.

WEB COPY

Consequently connected Miscellaneous Petition is closed. No costs.

21.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The VI Additional District Court,
Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.3336 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.3336 of 2023
and
C.M.P.(MD)No.17232 of 2023

Dated : 21.12.2023