



C.R.P.(MD)No.3341 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(PD)(MD)No.3341 of 2023

Muthathal : Petitioner/Petitioner/Respondent/
Judgment Debtor/Defendant

Vs.

Maheswari : Respondent/Respondent/Petitioner
Decree holder/Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Execution Court/Sub Court, Sankarankovil to number the Execution Application in unnumbered E.A.No.... of 2023 (CF.No.2678 of 2023 presented on 10.03.2023) in E.P.No.120 of 2022 in O.S.No.169 of 2017 forthwith and dispose of the same on merits and in accordance with law within stipulated time as fixed by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram



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ORDER

The Civil Revision Petition is directed against the order of return, dated 22.11.2023, raising query as to how this petition is maintainable.

2. The learned counsel for the petitioner would submit that since the revision petitioner was set ex-parte in the said execution proceedings, he has filed an application under Order 21 Rule 106 C.P.C., along with application to condone the delay of 67 days in filing the application. But the learned trial Judge has raised a query as to how the petition is maintainable and despite representation of the amended petition, the petition was again returned raising the same query.

3. The learned counsel for the petitioner would submit that there is a specific provision under Order 21 Rule 105(3) C.P.C and relied on the judgment of this Court in ***N.Rajendran Vs. Shriram Chits Tamil Nadu Private Limited, Rep.by its Branch Manager/Foreman No.23/3, Nethaji Road, Tiruvarur*** reported in ***2011 5 L.W. 174.***



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4. Considering the above and also taking note of the legal position, the impugned order of return is not proper and is not in accordance with law and as such, the same is liable to be set aside.

5. In the result, the Civil Revision Petition is allowed. The trial Court is directed to take the petition on file, if it is otherwise in order and to proceed with the same in accordance with law. No costs.

20.12.2023

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

Note : Registry is directed to return the original petition filed along with the civil revision petition, after getting necessary acknowledgement.

To

- 1.The Judge, Execution Court/Sub Court,
Sankarankovil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
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