



CRP.No. 331 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **22.11.2024**

CORAM :

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

Civil Revision Petition No. 331 of 2023

and

Civil Miscellaneous Petition No. 2783 of 2023

C.R.Pugalendhi

... Petitioner

Versus

Muruganandam

...Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the petition and Order dated November 22, 2022 in E.P.No.178 of 2018 in O.S.No. 245 of 2017 on the file of Subordinate Judge, Jayankondam.

For Petitioner : Mr.Gokulraj

For M/s.PV Law Associates

For Respondent : Mr.R. Shivakumar

For M/s.K.M.Vijayan Associates



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ORDER

This Civil Revision Petition has been directed against the Order dated November 22, 2022 in E.P.No.178 of 2018 in O.S.No.245 of 2017 on the file of Subordinate Court, Jayankondam ['Trial Court' for brevity].

2. The revision petitioner herein is the Defendant/Judgment Debtor and the respondent herein is the Plaintiff/Decree Holder before the 'Trial Court'. For the sake of convenience hereinafter the parties will be denoted as per their array before the 'Trial Court'.

3. The respondent/plaintiff obtained money decree dated July 05, 2018 against the defendant for a sum of Rs.5,94,066.66/- and cost of Rs.54,312.50. Subsequently, the plaintiff filed an Execution Petition in E.P.No.178 of 2018. In the said Original Suit, the defendant was



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examined as DW1 and the plaintiff was examined as PW1 and Ex.A1 to

Ex.A3 were marked. In the Execution Petition, the defendant was examined as RW1. The defendant in his cross examination admitted that he has one 'Thirumana Madapam' at Jayankondam, has received rental income there from. Therefore, the defendant admitted that he has sufficient means to satisfy the decree amount. The learned Trial Judge after considering the evidence of RW1 concluded that the defendant has sufficient means to satisfy the decree amount. Further, the Trial Court had held that the defendant only with a view to defeat the rights of the plaintiff from receiving the decree amount has been continuously filing frivolous petitions. Accordingly, ordered the arrest of the defendant.

4. Feeling aggrieved by the order, defendant filed this Civil Revision Petition.



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5. The learned Counsel for the revision petitioner/defendant/Judgment Debtor submits that the revision petitioner has no means to satisfy the decree amount. The Trial Court without conducting proper enquiry mechanically passed in one line order which is against the law. Accordingly, he prays to allow the above Civil Revision Petition.

6. Per contra, Mr.R.Shivakumar for M/s.K.M.Vijayan Associates, learned Counsel appearing for the respondent/defendant/Judgment Debtor submits that the Trial Court after conducting elaborate enquiry and after considering the admissions made by the revision petitioner/defendant/Judgment Debtor has passed the order, in which, there is no warrant to interfere with the impugned order. Accordingly, he prays to dismiss the above Civil Revision Petition.



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7. This Court has considered both sides' submissions.

8. This Court called for an explanation from the Trial Court.

The Trial Court sent the explanation dated 10.03.2023. In the said explanation, it has been specifically stated that on 26.07.2022, when the case was taken up for enquiry, respondent side evidence was closed with RW1 and no further evidence on 02.12.2021 was recorded. Thereafter, the case took further enquiry on 10.08.2022, 02.09.2022, 22.09.2022, 28.09.2022 and 20.10.2022. On 04.11.2022, petitioner's side argument was heard and on the date there was no representation on behalf of the revision petitioner/respondent/Judgment Debtor. The explanation report of the Trial Court is reads thus:-

On 26.07.2022, when the case was taken up for enquiry on perusal of case records, it was revealed that a memo filed by respondent stating that the respondent side evidence closed with RW1 and no further evidence on



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02.12.2021 was recorded. Hence, the case stood adjourned for further enquiry on 10.08.2022, 02.09.2022, 22.09.2022, 28.09.2022 and 20.10.2022. On 04.11.2022, petitioner side argument was heard and since there was no representation on behalf of respondent. Judgment Debtor the case adjourned to 15.11.2022, 18.11.2022. Even on the adjourned date there was no representation on behalf of the respondent/Judgment Debtor. Hence, the case was adjourned for Orders on 22.11.2022. On 22.11.2022, detailed order was passed on merits after careful perusal of decree. Exhibits, case records and arguments. The Order dated 22.11.2022 was immediately uploaded in the CIS.

9. This Court verified the aforesaid facts in the E-Court website.

As stated in the report that the detailed Order dated November 22, 2022 was uploaded in the E-Court Website. Further, the revision petitioner/defendant/Judgment Debtor obtained a copy of the fair and



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decretal Order from the E-Court Website, suppressing the real facts that the revision petitioner filed this Civil Revision Petition as if the Trial Court passed in one line order without considering the case of the respondent. In view of the facts and circumstances of the case, there is no merit in the Civil Revision Petition and the same deserves to be dismissed.

10. Accordingly, this Civil Revision Petition is dismissed.

Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.11.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To
The Subordinate Judge, Jayamkondam.



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R. SAKTHIVEL, J

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