



**C.R.P. Nos.565 and 566 of 2022**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

C O R A M

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**C.R.P.No.565 and 566 of 2022**  
**and C.M.P.Nos.2998 and 3002 of 2022**

V.Pattu ....Petitioner in C.R.P.No.565 of 2022

V.Saravanan ....Petitioner in C.R.P.No.566 of 2022

Vs.

K.Kannan ..... Respondent in both CRPs

**PRAYER in C.R.P.No.565 of 2022:** Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order passed dated 05.01.2022 passed in I.A.No.1 of 2021 in O.S.No.72 of 2021 on the file of the I Additional District Judge at Erode.

**PRAYER in C.R.P.No.566 of 2022:** Petition is filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order passed dated 05.01.2022 passed in I.A.No.1 of 2021 in O.S.No.72 of 2021 on the file of the I Additional District Judge at Erode.



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*In both C.R.P.'s:*

For Petitioners : Mr.Sharath Chandran

For Respondent : Mr.Abinav Parthasarathy

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**COMMON ORDER**

Since the issues involved in both the civil revision petitions are one and the same, they are disposed of by this common order.

2. These Civil Revision Petitions are preferred by the petitioners/plaintiffs challenging the order of dismissal, dated 05.01.2022 made in I.A.No.1 of 2021 in O.S.No.71 of 2021 and I.A.No.1 of 2021 in O.S.No.72 of 2021.

3. Learned counsel for the petitioners would submit that O.S.Nos.71 and 72 of 2021 have been filed by the petitioners/plaintiffs against the respondent herein, for recovery of sum of Rs.17,40,411/- and a sum of Rs.11,60,274/- respectively. It is his further contention that the respondent had borrowed the above said sum of money from the petitioners as hand

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loan. In order to discharge the said liability, the respondent had issued post-dated cheques drawn in favour of the petitioners and when those cheques were presented for collection through the petitioners' Bank, it is found that the same were dishonoured on 15.12.2020 and 19.12.2020 for the reason stating as 'insufficient funds'.

4. The respondent is the absolute owner of the schedule mentioned property, morefully described in the petition, by virtue of sale deed dated 18.06.2018 registered as Document No.6085/2018. Despite of repeated reminders sent by the petitioners, the respondent neglected to discharge the debt payable to them. Therefore, the petitioners have filed the above said suits to direct the respondent/defendant to repay the amount borrowed by him.

5. Pending suit, the petitioners have also filed Interlocutory Applications in I.A.No.1 of 2021 in O.S.No.71 of 2021 and I.A.No.1 of 2021 in O.S.No.72 of 2021 for attachment of the schedule mentioned property till the disposal of the suits and to pass an order of ad-interim



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attachment till the disposal of the suits, but the learned I Additional District Judge, Erode had dismissed the said applications vide order dated 05.01.2022 by holding that the submission made by the petitioners that 'the petition mentioned property is the only property owned by the respondent' is not at all acceptable and also when the petition mentioned property has already been mortgaged by the respondent to the Tamil Nadu Mercantile Bank Limited, even prior to the date of loan on 15.03.2020, then the petitioners cannot claim that there is no encumbrance over the petition mentioned property because in case of default in repayment of loan by the respondent, then the creditor viz. Tamil Nadu Mercantile Bank Limited would proceed against the respondent under the provisions of SARFAESI Act 2002. So, if another attachment over the petition mentioned property is created before judgment, as stated by the petitioners, then it would result in a circumstance where at the time of auction of the petition mentioned property, the proposed buyer would hesitate to purchase the said property and also the interest of creditor viz. Tamil Nadu Mercantile Bank Limited would be affected. Therefore, the learned I Additional District Judge, Erode dismissed the interlocutory applications filed by the petitioners.



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6. Aggrieved against the above said order of dismissal, the petitioners have preferred the present Civil Revision Petitions.

7. Today when the matters are taken up for hearing, learned counsel appearing for the respondent submitted that the respondent is ready and willing to pay the entire due amount to the tune of Rs.11,60,274/- and Rs.17,40,411/- to the credit of O.S.No.72 of 2021 and O.S.No.71 of 2021 respectively as demanded by the petitioners in the original suits.

8. Considering the submissions made by the learned counsel appearing on either side, this Court upon recording the statement made by the learned counsel for the respondent, directs the respondent to deposit the amount of Rs.11,60,274/- and Rs.17,40,411/- respectively to the credit of the suit in O.S.Nos.72 & 71 of 2021 on the file of I Additional District Judge, Erode, within a period of one week from the date of receipt of a copy of this order and the amount shall be kept in the interest bearing account till the disposal of the suits. On deposit, the suits shall be disposed of within a period of 6 months from the date of receipt of a copy of this order.



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**J.NISHA BANU, J.**

Msv

9. Accordingly, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**21.02.2024**

msv

Index: Yes/No

Internet: Yes/No

Speaking order: Non-speaking order

**Note: Issue order copy on or before 26.02.2024.**

To:

The Court of I Additional

District Judge, Erode.

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**and C.M.P.Nos.2998 and 3002 of 2022**

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**and**  
**C.M.P.Nos.2998 & 3002 of 2022**

**J. NISHA BANU, J.**

Today, these C.R.Ps. are listed under the caption 'for being mentioned'.

2. It is brought to the notice of this Court by the learned counsel for the respondent that this Court passed an order on 21.02.2024 directing the respondent to deposit the amount of Rs.11,60,274/- and Rs.17,40,411/- respectively to the credit of the suit in O.S.Nos.72 & 72 of 2021 on the file of I Additional District Judge, Erode, within a period of 'three weeks' from the date of receipt of a copy of the order, but in the order copy dated 21.02.2024, at paragraph No.8, it was wrongly mentioned as 'one week' instead of 'three weeks'. He would further state that three weeks time expires today. Therefore, he prays for another one week time to deposit the said amount to the credit of the suits.

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3. In view of the above submission, the respondent is hereby directed to deposit the said amount stated in the order dated 21.02.2024 within a period of one week from today (20.03.2024).

4. The order dated 21.02.2024 passed by this Court is modified only to the extent indicated above. In all other aspects, the order dated 21.02.2024 remain unaltered.

20.03.2024

vsi

**Note:**

Registry is directed to  
Issue order copy today(20.03.2024)