



CRP No.2041 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

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THE HON'BLE MR.JUSTICE **V.LAKSHMINARAYANAN**

CRP No.2041 of 2024 &
CMP.No.10908 of 2024

M/s.AEE Casting Ltd.,
Represented by its Director,
K.Vijayalakshimi : Petitioner
versus

1.S.P.Nachiappan
2.S.Venkatesan : Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to direct the learned Principal District Court, Chengalpet to keep the attachment proceedings in EP.No.142 of 2022 pending on the file of the learned Principal District court, Chengalpet in abeyance till disposal of EA.No.6 of 2023 in E.P.No.142 of 2022 on the file of the Principal District Court, Chengalpet.

For Petitioner : Ms.Aanchal M. Nichani

For Respondent 1 : Mr.S.Mukund, Senior Counsel,
for Mr.N.Damodaran

For Respondent 2 : Mr.S.Venkatesan



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ORDER

This is a case where compromise memo had been entered into by the civil revision petitioner on 08.02.2020. Pursuant to the compromise, the first respondent, S.P.Nachiappan agreed to receive a sum of Rs.75,00,000/- and transfer 2100 equity shares that was held by the said Nachiappan in the first defendant company in favour of the plaintiff, Mr.S.Venkatesan who is the second respondent herein.

2. One of the terms of the compromise was that S.P.Nachiappan and N.Murugappan, namely the second and third defendants, will not interfere in the affairs of the first defendant/company. They were also called upon to withdraw the review application filed by them in RA.No.115 of 2013 in Company Appeal No.19 of 2009 then pending before this Court.

3. The parties agreed that the review application was also dismissed as withdrawn. To this compromise as pointed out above, the civil revision petitioner/company was a party and it was signed by one of its Directors



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namely Jayashankari. As the terms of the compromise were not adhered to, an execution petition was levied in E.P.No.142 of 2022 on the file of the Principal District Court at Chengalpet.

4. The company, having agreed to the terms of the compromise, seems to put up a defence that it is a separate entity in the eye of law and therefore, the attachment of its property is not maintainable. In order to substantiate this plea, an application was filed in EA.No.6 of 2023.

5. Whether an application to implead is maintainable before the Executing Court has not yet been decided by the learned Principal District Judge. Even before the said adjudication is completed, this revision has been filed seeking to keep in abeyance the execution petition pending disposal of the petition filed to implead.

6. Whether the learned Principal District Judge wants to keep the execution proceedings in abeyance, pending the impleading application is a matter which has to be decided by the learned Principal District Judge



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herself. This Court cannot step into the shoes of the learned Principal District judge unless and until any action has been taken without jurisdiction or no action has been taken despite being vested with such jurisdiction.

7. I called upon Ms.Aanchal M.Nichani to state as to how that petition under Order I Rule 10(2) is maintainable in an execution petition. I have not received any positive answer from her on that point. She would plead that as it is a company's property and for the liability of a Director, the company's property cannot be proceeded against it.

8. Suffice it to say, the company is a beneficiary by virtue of withdrawal of the review application and therefore, it cannot renege from the contract entered into by it. The compromise deed is a contract which has a seal of approval of the Court.

9. I have my own doubts regarding the maintainability of the impleading petition. Nonetheless since the prayer sought in the revision can be granted only by the learned Principal District Judge, I am not in a



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position to come to the rescue of Ms.Aanchal M.Nichani's client.

10. The civil revision petition is dismissed, accordingly. No costs.

Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order/Non-speaking order

Neutral Citation : Yes/No

To

1.The Principal District Court, Chengalpet.



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V.LAKSHMINARAYANAN, J.

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