



C.R.P.No.1051 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1051 of 2022

and

C.M.P.No.5390 of 2022

P.Jayaramaraju

... Petitioner

Vs.

J.Jamuna

... Respondent

PRAYER: Revision filed under Article 227 of the Constitution of India praying to set aside the order and decretal order dated 09.11.2021 passed in E.A.No.1 of 2021 in E.P.No.1998 of 20218 in O.S.No.9631 of 2010 by the learned X Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.J.Kamaraj

For respondent : Mr.K.Venkateswaran

ORDER

This civil revision petition arises against the order passed under Section 59 of the Code of Civil Procedure in E.A.No.1 of 2021 dated 09.11.2021.



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2. The petitioner before me is the judgment debtor in the suit.

O.S.No.9631 of 2010 was presented for the purpose of recovery of a sum of Rs.2,00,000/- together with interest at the rate of 24% per annum. The said suit was contested. After contest, the learned Trial Judge decreed the suit for the sum of Rs.2,00,000/- together with interest at the rate of 12% per annum. The suit was decreed on 10.09.2012. Against the said judgment and decree, an appeal was preferred before the learned Principal City Civil Court, Chennai in A.S.No.448 of 2012. The said appeal was dismissed on 27.07.2015. In order to recover the amount, the judgment creditor presented E.P.No.1998 of 2018. The execution petition had been filed for arrest and detention in terms of Order XXI Rules 37 and 38 of the Code of Civil Procedure.

3. The learned Trial Judge ordered arrest. Thereafter, an application was taken out in E.A.No.1 of 2021 stating the petitioner is sick as he is suffering from diabetes and therefore, he sought deferring of the arrest warrant.

4. A counter was filed stating that the judgment debtor is hale and healthy and that no records had been produced to show that he is suffering from some illness.



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5. Apart from that, documents were filed to show that one son of the judgment debtor is employed in a hospital and another son is working abroad. Furthermore, it was pleaded that the judgment debtor is doing real estate business and therefore, he would be earning about Rs.40,000/- per month.

6. The judgment debtor produced a certificate dated 12.03.2021 before the learned Trial Judge in order to substantiate his illness. The court below came to a conclusion that the very certificate produced by the judgment debtor shows that he had been advised to be in bed rest for two weeks, and that the petitioner was not suffering from any serious illness. The Court had ordered arrest only after it had come to the conclusion that the judgment debtor is having sufficient income. That order has attained finality.

7. The fact that the judgment debtor is sick does not mean he should not honour the decree. If I were sympathetic to the judgment debtor because he is sick, then there is a possibility that the decree holder would get sick because of such an order. I am not convinced with the



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reasons given by learned counsel Mr.J.Kamaraj. Hence, the civil revision petition is dismissed. The Executing Court is directed to complete the execution proceedings on a priority basis.

8. With the above observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No

Sgl



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To

The X Assistant Judge,
City Civil Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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