



CRP.No.4897 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.4897 of 2024
and CMP.No.27472 of 2024

M.Ponnusamy

... Petitioner

Versus

D.Anandarangan

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 18.11.2024 passed in EP.No.4487 of 2023 on the file of the IX Assistant Judge, City Civil Court, Chennai.

For petitioner : Mr.K.V.Sundararjan
for Mr.M.Murali

ORDER

Challenge has been made to the order of attachment made to the salary of the revision petitioner in execution proceedings, the revision has been filed.

2. The respondent has filed a suit in O.S.No.8851 of 2022 for recovery of sum of Rs.15 lakhs from the revision petitioner with interest @ 18 p.a., The said



CRP.No.4897 of 2024

suit was decreed on 28.04.2023. As no appeal is pending, Execution Petition has been filed in E.P.No.4487 of 2023. In the said EP, the order of attachment is made to the salary. Challenging the same, the present revision has been filed.

3. The main contention of the learned counsel for the revision petitioner is that the decree passed by the Trial Court is only an exparte decree, he has already filed three applications to set aside the exparte decree in I.A.Nos.1 to 3 of 2024 on the file of the XX Additional Sessions Judge, XX Additional District and Sessions Court, City Civil Court, Chennai. However, without considering the same, executing Court has passed the impugned order. Hence, seeks for allowing this revision.

4. Heard the learned counsel for the petitioner and perused the materials placed on record. At this stage, this Court is of the view that mere pendency of the applications to set aside the exparte decree is not an automatic stay of execution proceedings, unless specific stay has been granted by the Trial Court or the appellate Court, it cannot be said that till such proceedings are concluded, no execution is leviable. Such view of the matter, I do not find any merits in this



CRP.No.4897 of 2024

revision. However, considering the fact that the applications are pending before the XX Additional Sessions Judge, XX Additional District and Sessions Court, City Civil Court, Chennai, the XX Additional Sessions Judge shall dispose of the applications in I.A.Nos.1 to 3 of 2024 filed in O.S.No.8851 of 2022 and dispose of the same on merits. The Trial Court shall dispose of the said applications within a period of two months from the date of receipt of a copy of this Order. In the event, the Trial Court allows that applications, communication shall be sent to the executing Court to recall the order passed in the execution proceedings. Till the disposal of the applications, the revision petitioner shall deposit a sum of Rs.25000/- per month before the execution court. It is also made clear that in the event of failure to deposit the above amounts, the order of attachment shall continue. If the amount is deposited every month as ordered above, the Execution Court may keep the pro-order in abeyance.

5. Accordingly, this revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

18.12.2024

Index : Yes / No
Speaking/non speaking order
dhk



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CRP.No.4897 of 2024

N. SATHISH KUMAR, J.

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To,

The IX Assistant Judge
IX Assistant City Civil Court, Chennai

2. The XX Additional Sessions Judge,
XX Additional District and Sessions Court,
City Civil Court, Chennai,

CRP.No.4897 of 2024

18.12.2024