



C.R.P(NPD)(MD)No.310 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(NPD)(MD)No.310 of 2022

and

CMP(MD)No.1369 of 2022

K.Sakthivel

... Petitioner/Judgment Debtor/
Defendant

VS.

K.Karuppasamy

... Respondent/Decree Holder/Plaintiff

Prayer:- Civil Revision Petition filed under Section 115 of C.P.C., to set aside the fair and decretal order made in E.P.No.91 of 2018 in O.S.No.126 of 2013 by the Principal Sub Court, Palani dated 04.02.2020.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.M.P.Senthil



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ORDER

The Civil Revision Petition is directed against the order dated 04.02.2020 made in E.P.No.91 of 2018 in O.S.No.126 of 2013 on the file of the Principal Sub Court, Palani.

2.The said execution petition is filed to execute the money decree. It is represented by the learned counsel for the respondent/decreed holder that as on date, the total amount due comes to Rs.4,39,877/-.

3.The learned counsel appearing on behalf of the petitioner would submit that even without taking any means evidence and when the property of the petitioner also stood attached, the order of arrest has been passed. To show his *bonafide*, today the petitioner is handing over a demand draft for a sum of Rs.50,000/- bearing D.D.No.201614, dated 18.07.2024 drawn on State Bank of India, Thoppampatti Branch. The said demand draft is received by the learned counsel for the decree holder and part satisfaction of the decree is also recorded.



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4.Considering the fact that the petitioner has shown some *bonafides*, at the same time, since the suit is of the year 2013 and considering the arguments made by the learned counsel for the petitioner that the petitioner will pay the balance sum in equal monthly installments, the Civil Revision Petition is disposed of on the following terms:

(i) The order impugned in the civil revision petition dated 04.02.2020 in E.P.No.91 of 2018 is set aside;

(ii) E.P.No.91 of 2018 is restored to the file of the learned Principal Sub Court, Palani;

(iii)The part payment of Rs.50,000/- and part satisfaction on behalf of the decree holder is also recorded;

(iv)The balance sum due on the execution petition, shall be paid in eight equal monthly installments starting from the month of September 2024;

(v) If the petitioner continues to pay the monthly



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installments, the court shall adjourn the execution petition for further payment;

(vi) If the petitioner defaults for a single monthly installment, thereafter the trial Court will be entitled to take means evidence and pass the order of arrest in the execution petition;

(v) The execution petition is disposed of on the above terms.

No costs. Consequently, connected miscellaneous petition is closed.

19.07.2024

NCC : Yes / No
sji

To

The Principal Sub Court, Palani.



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D.BHARATHA CHAKRAVARTHY, J.

sjj

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