



C.R.P(MD)No.766 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.766 of 2019

S.M.M.Muthuraman Chettiar (Died)

1.S.M.Sekkappan

2.S.M.Muthuraman

... Petitioners

(2nd petitioner is the power agent of the first petitioner)

Vs.

1.M.Nagarajan

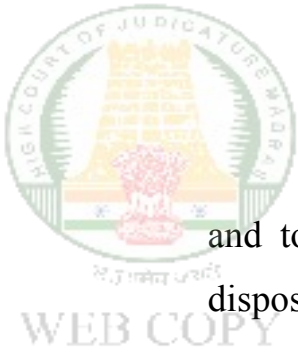
2.A.Chidambaram

3.The Regional Transport Authority,
Pudukkottai.

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the petition and order, dated 19.09.2018 made in E.P.No.70 of 2009 in O.S.No.111 of 2003 on the file of the Sub Court, Pudukkottai and to allow this Civil Revision Petition

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and to restore the E.P.No.70 of 2009 in O.S.No.111 of 2003 and to dispose of the same on merits and in accordance with law.

For Petitioners : Mr.G.Sridharan

For R-1 & R-2 : No appearance

For R-3 : Mr.C.Satheesh
Government Advocate

ORDER

The legal heirs of the plaintiff in O.S.No.111 of 2003 on the file of the Sub Court, Pudukottai are the revision petitioners. The revision petition has been filed challenging the termination of execution proceedings for not filing a Calculation Memo.

2. The plaintiff had filed the above suit for recovery of money and the same was decreed on 05.08.2005. An execution petition in E.P.No.70 of 2009 was filed. The petition was adjourned from time to time and some payments were also made by the judgment debtor. On 08.09.2017, the Executing Court had directed both the parties to file a Calculation Memo with regard to the outstanding amount. Since a Calculation Memo



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was not filed, the execution proceedings were terminated on 19.09.2018.

Challenging the same, the present revision petition has been filed by the decree holder.

3. Pending revision petition, this Court has directed the decree holder to submit a Calculation Memo before this Court and in compliance of the same, a Calculation Memo, dated 08.04.2024 has been submitted. The same is recorded.

4. Though the judgment debtor has been served and his name is printed in the cause-list, there is no appearance either in person or through Counsel.

5. In view of the above said facts, the order impugned in the Civil Revision Petition is set aside. E.P.No.70 of 2009 is restored to the file. The learned Counsel appearing for the revision petitioner / decree holder is directed to file this Calculation Memo before the Executing Court. An opportunity may be granted to the judgment debtor to file the Calculation



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Memo of their own. After considering the Calculation Memo filed by either parties, the Executing Court is directed to dispose of the E.P on merits and in accordance with law, within a period of four (4) months from the date of receipt of a copy of this order.

6. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs.

08.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Sub Court,
Pudukkottai.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR, J.

BTR

Order made in
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08.04.2024