



WEB COPY

C.RP(MD)No.1699 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1699 of 2024

and

C.M.P(MD).No.9903 of 2024

Kalidoss

... Petitioner

Vs.

Radha

...Respondent

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 06.04.2024 passed by the Additional Subordinate Court, Thanjavur, in E.A.No.2 of 2023 in E.P.No.200 of 2022 in O.S.No.195 of 2018.

For Petitioner

:Mr.A.Senthilkumar

ORDER

This civil revision petition is directed against the order dated 06.04.2024 made in E.A.No.02 of 2023 in E.P.No.200 of 2022 in O.S.No. 195 of 2018.



2. The decree was passed on 10.12.2018 directing the defendants to pay a sum of Rs.4,51,071/-(Rupees Four Lakhs Fifty One Thousand and Seventy One only) with further interest on the principal sum of Rs.3,50,000/-(Rupees Three Lakhs and Fifty Thousand only) at the rate of 6% per annum. It can be seen that the petitioner herein, who is the defendant, remained *ex-parte* on the basis of which *ex-parte* decree was passed. Thereafter also, the petitioner did not comply with the decree. The decree-holder was forced to approach the Court for execution of the decree. In E.P.No.200 of 2022 also the petitioner herein remained *ex-parte* and an order of civil arrest was passed in the execution petition. It is thereafter the present E.A.No.2 of 2023 is filed by the petitioner to set aside the *ex-parte* order of arrest. The said petition is allowed by the trial Court, however, on condition to deposit a sum of Rs.1,30,000/- being the 25% of the amount ordered as per the decree alone. As against which, the present civil revision petition is filed.

3. Mr.A.Senthil Kumar, learned counsel for the petitioner, submits that the condition imposed by the trial Court is onerous. When the petition has been filed to set aside the *ex-parte* order even without deciding the matter liability is now sought to be fastened, which results in grave prejudice to the petitioner. The trial Court at least ought to have imposed any lumpsum amount lesser than the 25% of the decree amount.



4. Heard the learned counsel for the petitioner and perused the material records of the case.

5. It can be seen that even as on today, the petitioner has not taken any steps as against the *ex-parte* decree. The decree has become final. Therefore, when the amounts payable by him has become final, I see no error in the order of the trial Court in allowing his petition on payment of 25% of the decree amount. Only a lenient condition is imposed. The trial Court had given time till 26.04.2024, this Court cannot come to the rescue of the petitioner. Accordingly, finding no merits, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

31.07.2024

NCC:Yes/No

Index:Yes/No

Rmk

To

1.The Additional Subordinate Judge, Thanjavur.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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