



C.R.P.(MD)No.1839 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.1839 of 2024
and C.M.P.(MD).No.10362 of 2024

Kamaljit Kaur Chadha,
Proprietor, Falco Auto Corporation,
No.22, Dilip Niwas, Benham Hall Lane, Opera House,
Mumbai- 400 004.
Rep. Through Her Power Agent
Mr.S.Mohamed Kadhar,
S/o.Sulthan Khan,
A.P.Malayandipuram,
Arumbanur, Kodikulam,
A.Pudur, Madurai – 625 104. ... Petitioner/Petitioner

Vs.

1.Rajalakxmi Auto Stores,
Proprietorship Firm,
No.70, Tamilsangam Road,
(Upstairs), Madurai – 625 001,
Tamilnadu, through the Manager,
2.T.Murugan,
M/s.Rajalakxmi Auto Stores,
Madurai – 625 001,
Tamilnadu. ... Respondents/Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of the
Civil Procedure Code, to call for the records relating to the fair and



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decreetal order passed in E.P.No.381 of 2022 in Summary Suit No.572 of 2018 on the file of the Principal Sub Court, Madurai, dated 07.06.2024 and to set aside the same as illegal.

For Petitioner : Mr.S.Chandrasekar

For Respondents : Mr.AN.Ramanathan

ORDER

This revision petition has been filed to set aside the fair and decreetal order passed in E.P.No.381 of 2022 in Summary Suit No.572 of 2018 on the file of the Principal Sub Court, Madurai, dated 07.06.2024.

2.This revision has been preferred against the order of dismissal of execution petition on the ground that means of the respondents herein is not proved. But, subsequent development took place before this Court in the form of direction given to the second respondent herein. By the order dated 03.09.2024, the second respondent was directed to file undertaking affidavit. On the basis of the above said order undertaking affidavit has been filed by the second respondent herein.

3.In the affidavit the following undertaking was given by the



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second respondent herein.

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“4.I respectfully submit that I am willing to settle the dispute with the civil revision petitioner in the following terms:-

(i)A sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) will be paid by me in 3 installments as follows:-

1st Installment – Rs.50,000/- (on or before 30.09.2024)

2nd Installment - Rs.50,000/- (on or before 31.10.2024)

3rd Installment - Rs.50,000/- (on or before 30.11.2024)

(ii) Payment of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) will be full and final settlement towards the claim of the civil revision petitioner in the above proceedings.

(iii) The Civil Revision Petitioner will not have any claim against me and the 1st respondent/'Rajalakxmi Auto Stores'.

4.As per the undertaking the first installment about to be paid on or before 30.09.2024. But, on 30.09.2024, he has not paid the first installment. Therefore, he was directed to be appeared before this Court



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on 04.10.2024. On 04.10.2024 the 2nd respondent appeared in person and submitted that he is ready to pay the first installment on that day itself.

Later reported that the amount was paid. As per the undertaking, the balance amount to be paid is Rs.1,00,000/-. Again direction was issued to file an affidavit in respect of the payment of balance amount. When the matter was called on 18.10.2024, again undertaking affidavit was filed by the 2nd respondent stating that he will pay the second installment on or before 16.11.2024 and the third installment on or before 31.12.2024. For reporting the payment of second installment, the matter was ordered to be posted on 18.11.2024. On that date also, there is no instructions with regard to the payment of second installment. After that the matter is listed today.

5.The learned counsel for the second respondent would submit that he has not received any information from the respondent. In view of the specific undertaking given by the respondent and the submissions made by the learned counsel for the second respondent, it appears that the second respondent failed to pay the second installment violating his own undertaking.



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6. In view of the above, this Court cannot keep the matter pending.

There shall be a direction to the trial Court to restore the Execution Proceedings and by taking the undertaking of the 2nd respondent as proof of means to proceed with the matter in accordance with law.

7. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Principal Sub Judge, Madurai.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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