



C.R.P(MD)No.331 of 2018

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.331 of 2018

and

C.M.P(MD)No.1543 of 2018

The Area Manager,
LIC Housing Finance Limited,
AR Plaza, North Veli Street,
Madurai.

... Petitioner

Vs.

1.M/s.Geetha Trading Company,
Represented by its Proprietor,
A.Arumugam.

2.Gothandaraman

3.Vasantha

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order, dated 06.10.2017 made in E.A.No.36 of 2016 in E.P.No.2 of 2011 in O.S.No. 788 of 2004 on the file of the Court of the Principal District Munsif Dindigul and allow the Civil Revision Petition.

1/6



C.R.P(MD)No.331 of 2018

For Petitioner : Mr.V.Veera Pandian
for M/s.Vastlaw Associates

R-1 : Died

For R-2 & R-3 : No appearance

ORDER

The present Civil Revision Petition has been filed by the Garnishee in E.P.No.2 of 2011 in O.S.No.788 of 2004 on the file of the Principal District Munsif Court, Dindigul.

2. The first respondent in the revision petition as plaintiff had filed O.S.No.788 of 2004 for the relief of recovery of money as against the respondents 2 and 3 herein. The suit was decreed on 09.09.2005. The decree holder had filed E.P.No.2 of 2011, in which the revision petitioner was impleaded as the third respondent on the ground that, he is a garnishee. Pending execution proceedings, the third respondent had not filed his counter and he was set *ex parte*. Thereafter, an order of attachment came to be passed on 05.11.2012 and the said execution proceedings were closed.



C.R.P(MD)No.331 of 2018

WEB COPY

3. Since the garnishee had not deposited the amount before the Court, E.A.No.107 of 2015 was filed for arresting the garnishee. According to the learned Counsel appearing for the revision petitioner, the garnishee came to know about the closing of execution proceedings, only when they received notice for arrest. Thereafter, they had filed E.A.No.36 of 2016 to condone the delay of 1707 days in filing an application to set aside the *ex parte* order. The Executing Court after considering the dates and events has arrived at a finding that the garnishee was very well aware of the pendency of the execution proceedings and they were not diligent enough in defending the same. On the basis of the above said findings, the application to condone the delay was dismissed. Challenging the same, the present revision petition has been filed.

4. According to the learned Counsel appearing for the revision petitioner after satisfying the entire due amount from the respondents 2 and 3, they are holding back balance amount of Rs.1,07,769.10/-, which



C.R.P(MD)No.331 of 2018

is sought to be recovered from the garnishee through E.P.No.2 of 2011.

On instructions, the learned Counsel appearing for the revision petitioner further submits that they are ready to deposit the entire amount within a period of four weeks from the date of receipt of a copy of the order. The first respondent in the revision petition / decree holder has passed away and the garnishee is not able to identify the legal heirs. This Court is not inclined to adjourn the same for the purpose of impleading the legal heirs, especially when the garnishee is ready to deposit the entire decree amount before the Execution Court.

5. In view of the above said deliberations, the order of the E.P Court is set aside. The matter is remitted back to the file of the Executing Court. The revision petitioner / garnishee is directed to deposit the decree amount along with accrued interest within a period of four (4) weeks from the date of receipt of a copy of this order. On such deposit, if the executing Court is satisfied, shall close the execution proceedings as against the garnishee.



C.R.P(MD)No.331 of 2018

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

10.04.2024

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

To

- 1.The Principal District Munsif Court,
Dindigul.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.331 of 2018

R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.331 of 2018

10.04.2024