



C.R.P.(MD)No.2125 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2125 of 2024

and

C.M.P.(MD)No.12106 of 2024

T.Selvakumar

... Petitioner / Petitioner / Respondent /
Defendant

Vs.

G.Thainesh @ Dinesh

... Respondent / Respondent / Petitioner /
Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.03.2024 passed in E.A.No.7 of 2023 in E.P.No.90 of 2020 in O.S.No.264 of 2014 on the file of the first Additional Sub Judge at Nagercoil.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.T.Selvakumaran



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ORDER

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Heard both sides.

2.The respondent herein filed O.S.No.264 of 2014 on the file of the first Additional Sub Judge, Nagercoil for recovery of a sum of Rs.5,00,000/- with interest from the revision petitioner herein. The suit was decreed as prayed for on 25.04.2017. The decree holder thereafter filed E.P.No.90 of 2020 for enforcing the decree. At this stage, the Judgment debtor filed E.A.No.7 of 2023 seeking permission to clear the decreetal dues in installments. IA was dismissed vide order dated 13.03.2024 on the ground that under Article 126 of the Limitation Act, the Judgment debtor ought to have approached the Court which passed the decree within 30 days of passing of the decree to clear the decreetal dues in installments. Since the Judgment debtor failed to do so in this case, the executing Court came to the conclusion that EA was not maintainable. Challenging the said order, the present civil revision petition has been filed.

3. The learned counsel appearing for the revision petitioner draws my attention to the decision reported in **2012 (4) CTC 504 (M.Pasupathi Vs. M.N.Chinnusamy)**. A learned Judge of this Court had held that the Executing Court has ample power to grant sufficient time to the Judgment debtor to discharge the decreetal dues.



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4. I am inclined to adopt the very same approach in this case also. In this view of the matter, the impugned order is set aside. The decretal liability has mounted to more than Rs.11,00,000/-. The petitioner has already deposited Rs.1,00,000/-. The decree holder is at liberty to withdraw the same. The balance amount shall be cleared by the petitioner in exactly 15 equal monthly installments. The first installment shall be payable on 15.11.2024. If the petitioner commits default in paying two successive monthly installments, the benefit of this order will stand automatically vacated and it would be open to the executing court to take appropriate steps as per law.

5. The Civil Revision Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The first Additional Sub Judge at Nagercoil.

G.R.SWAMINATHAN, J.



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