



CRP(MD)No.2044 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20/03/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CRP (MD) No.2044 of 2023

and

CMP (MD) No.10275 of 2023

1.A.Karmegam
2.K.Kasthuri
3.K.Aathi

: Petitioners/Respondents/
Respondents

Vs.

M/s.Sriram City Union Finance Limited,
No.123, Angappa Naicken Street,
Chennai-600 001.
Having Office at:-
By its Authorised Signatory,
No.353/1 & 353/2, A.C Complex,
1st Floor, Near Periyar Statute,
Sekkalai Road,
Karaikudi-630 001.

: Respondent/Petitioner/
Complainant

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to strike off the execution petition pending in EP No.36 of 2022 on the file of the Principal District Court, Ramanathapuram, Ramanathapuram District and pass such further or other orders.

For Petitioner : Mr.J.Senthil Kumar

For Respondent : Mr.J.Barathan



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O R D E R

WEB COPY This civil revision petition has been filed seeking in order to strike off the execution petition pending in EP No.36 of 2022 in A.C.P.KCVJ TF No.232 of 2015 on the file of the Principal District Court, Ramanathapuram, Ramanathapuram District.

2.The facts in brief:-

Award was passed in A.C.P.KCVJ TF No.232 of 2015 by the Sole Arbitrator, Sivagangai, directing the petitioner to pay a sum of Rs.10,45,140/-. To execute the decree, the respondent herein filed EP No.11 of 2018 before the Principal District Judge, Ramanathapuram. That was dismissed for default. Second application was filed in EP No.30 of 2023. But the petitioner challenged the maintainability of the same by filing this revision petition on the ground that without restoring EP No.11 of 2018, second application is not maintainable.

3.Heard both sides.

4.The learned counsel appearing for the petitioner would draw the attention of this court to the order passed by this court in **CRP(PD)MD No.969 of 2009, dated 06/11/2009 (R.S.Pandiya Pillai (died) and 5 others Vs.**



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Botha Raj and another) and would submit that a detailed procedure has been set out under Order 21 Rule 106(3) CPC as to how deal with the execution petitions and applications, etc.

5. But this court is not in agreement with the learned counsel appearing for the petitioner for the simple reason that as pointed out by the learned counsel appearing for the respondent, only if the suit is dismissed for default and without filing restoration petition under Order 9 Rule 9 CPC, second suit on the very same cause of action will not lie. But that does not apply to the execution proceedings. Execution Petition can be filed for any number of times till the decree is satisfied or terminated.

6. The point that has been raised by the petitioner is only with reference to Order 21 Rule 105 or 106 CPC as the case may be. But so far as the dismissal of the execution petition for default is concerned, there is no bar. Option is available to the decree-holder to exercise or to take any one of two courses, either they can file a petition to restore the dismissal or file fresh application.



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7.Now the respondent herein has exercised the second option. There is no legal bar. So, the contention raised by the petitioner is not all maintainable.

8.In the result, this civil revision petition stands **dismissed.** No costs. Consequently, connected Miscellaneous Petition is closed.

20/03/2024

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Principal District Judge,
Ramanathapuram.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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