



C.R.P.(MD)No.2709 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.2709 of 2024

and

C.M.P.(MD)No.15471 of 2024

Venkatesh Babu,
Managing Director,
M/s.Sakthi Hsopital,
Office at Vannarpettai,
Palayamkottai Taluk,
Tirunelveli District,
Now having Hospital and Office at
Sakthi Hospital,
48F-St, Xavier Colony,
South Bye Pass Road,
Near New Bus Stand,
Tirunelveli-627 005.

... Petitioner

Vs.

1.M/s. Modern Architectural Consultants,
represented by their Managing Director,
K.Jeyapalan,
No.449A, Main Road,
Kovilpatti-628 501.



C.R.P.(MD)No.2709 of 2024

WEB COPY

2.M/s. Modern Engineering Construction,
represented by their Managing Director,
K.Jeyapalan,
No.449A, Main Road,
Kovilpatti-628 501.

3.M/s. Modern Builders Company,
represented by their Managing Director,
K.Jeyapalan,
No.449A, Main Road,
Kovilpatti-628 501.

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the order, dated 04.09.2024, passed in E.P.No.41 of 2022 in O.S.No.76 of 2014 on the file of the Principal District Court, Tirunelveli.

For Petitioner : Mr.K.Shwahini
for Mr.G.Prabhu Rajadurai
For Respondents : Mr.J.Senthil Kumar

ORDER

The present civil revision petition is filed by the judgment debtor against the order, dated 04.09.2024, passed in E.P.No.41 of 2022 in O.S.No.76 of 2014 on the file of the Principal District Court, Tirunelveli.



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2. The O.S.No.76 of 2014 is filed to recover the money. The respondent is a builder who had put up construction for the revision petitioner but the revision petitioner failed to pay, hence the suit for recovery of money. Against the judgment and decree an Appeal Suit was preferred and the same was dismissed. Then second appeal was preferred and the same was dismissed. Then SLP was preferred before Hon'ble Supreme Court and the revision petitioner lost the case. Thereafter, E.P.No.41 of 2022 was filed to recover the money. In the execution petition, Principal District Judge has passed an order of the arrest and against the said order of arrest, the present revision petition is filed.

3. The contention of the revision petitioner is that he had incurred heavy loss and hence he could not pay the amount. If time is granted, he would pay the amount. But without granting time, in the impugned order arrest had been ordered. The respondents vehemently opposed the contention of the revision petitioner and submitted several opportunities were granted, inspite of the same the revision petitioner failed to pay the same, hence the arrest of the revision petitioner was ordered. Further opposed to set aside the arrest and submitted that



C.R.P.(MD)No.2709 of 2024

WEB COPY

the decree holder will not be in a position to execute the decree. This Court is of the considered opinion that arrest ought to be last remedy. Therefore, the revision petitioner is granted instalment to pay the amount. If failed to pay the amount then respondent has the remedy to recovery the said amount by attaching the property.

4. In order to grant one more opportunity to the revision petitioner, this Court is directing the revision petitioner to pay the amount in installments. The revision petitioner is directed to pay Rs.2,00,000/- each month payable on or before 15th day each month and the 1st installment shall be paid on or before 16.12.2024. Thereafter, the final principal amount shall be paid within 31.07.2025. Then, the revision petitioner shall pay the interest portion from August, 2025 and the balance amount shall be paid till the satisfaction of the entire amount including the cost of Rs.2,00,000/-. The Execution Court shall attach the following property, until the installments stated supra are paid:

“Sakthi Hospital,
48F-St, Xavier Colony,
South Bye Pass Road,
Near New Bus Stand,
Tirunelveli-627 005.”



C.R.P.(MD)No.2709 of 2024

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The revision petitioner is also directed to furnish the details of other available properties to the Execution Court to attach the said properties until the installments are paid. If there is any default in payment, the respondent is at liberty to proceed with the said properties to recover the amount.

5. With the above said observations, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Tmg

To

- 1.Principal District Court,
Tirunelveli.
- 2.The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.2709 of 2024

S.SRIMATHY, J.

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C.R.P.(MD)No.2709 of 2024

28.10.2024