



C.R.P(MD)No.3309 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.3309 of 2023

and

CMP(MD)No.17079 of 2023

A.Rajalakshmi

... Petitioner / Defendant

Vs

S.Rani

... Respondent / Plaintiff

Prayer : This Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the order passed in E.A.No.2 of 2023 in E.P.No.66 of 2022 in O.S.No.44 of 2020 on the file of the Subordinate Court, Periyakulam, dated 02.09.2023.

For Petitioner : Mr.B.Muneeswaran

For Respondent : Mr.S.Ayyanar Premkumar

ORDER

This Civil Revision Petition is filed to set aside the order passed in E.A.No.2 of 2023 in E.P.No.66 of 2022 in O.S.No.44 of 2020 on the file of the Subordinate Court, Periyakulam dated 02.09.2023.



C.R.P(MD)No.3309 of 2023

2. The facts in brief is that the suit in O.S.No.44 of 2020 was filed by the respondent herein for recovery of Rs.7 Lakhs with interest and cost. The revision petitioner eventhough filed written statement failed to appear before the trial Court and ex parte order was passed. To set aside the ex parte order, he filed I.A.No.1 of 2021, that was allowed with a condition to pay the cost. After that he filed written statement. Again he failed to appear and the suit was decreed ex parte by a judgment and decree dated 03.08.2022. Again to set aside the ex parte decree, he filed I.A.Nos.2 and 3 of 2023. In the meantime, E.P.No.66 of 2022 was filed by the respondent to stay the execution proceedings. The revision petitioner filed E.A.No.2 of 2023. That came to be dismissed by order dated 02.09.2023. Against which this Civil Revision Petition is preferred.

3. It is stated by the revision petitioner that I.A.Nos.2, 3 and 4 of 2023 that were filed by him, are pending before the trial Court. Pending the same, if any execution is ordered then his right will be affected.

4. Such sort of contention is not at all available. The petitioner ought to have prosecuted the above said I.A. in a diligent manner.



C.R.P(MD)No.3309 of 2023

Without prosecuting those matters, the execution petition in E.P.No.66 of 2022 filed by the revision petitioner to stay the execution petition itself is not maintainable and proper. I.A.No.4 of 2023 was filed by the revision petitioner seeking extension of time to comply the condition was dismissed on 01.08.2023.

5. When no petition is pending before the trial Court, then execution cannot be stalled as observed by the execution Court. I find absolutely no error in the order passed in E.A.No.2 of 2023 in E.P.No.66 of 2022 in O.S.No.44 of 2020 by the Subordinate Court, Periyakulam dated 02.09.2023.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

21.11.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
pnn

G.ILANGO VAN, J.

3/4



C.R.P(MD)No.3309 of 2023

pnn

To

- 1.The Subordinate Court, Periyakulam.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
C.R.P(MD)No.3309 of 2023
and
CMP(MD)No.17079 of 2023

21.11.2024