



C.R.P.No.130 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.130 of 2025
and CMP.No.1013 of 2025

P.Mohanraj

...Petitioner

Vs

S.Geetha

...Respondent

PRAYER Civil Revision Petition is filed under Section 115 of CPC, to set aside the order passed in EA No.4 of 2024 in EP No.595 of 2021 in RCOP No.797 of 2015 dated 16.12.2024 on the file of XV Small Causes Court, Chennai and allowing this Revision Petition.

For Petitioner : Mr.C.Deivasigamani for Mr.K.Murthy

ORDER

The Civil Revision Petition on hand has been instituted to assail the order dated 16.12.2024 passed in E.A.No.4 of 2024 in E.P.No.595 of 2021 in RCOP.No.797 of 2015 on the file of the XV Court of Small Causes at Chennai.



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The petitioner is the tenant/judgment debtor in the execution petition. The Civil Revision Petition filed by the petitioner in CRP.No.1183 of 2024 was dismissed for default. The decree holder filed execution petition, which was ordered. The petitioner/judgment debtor filed E.A.No.4 of 2024 under Section 47 CPC. The Rent Control Court adjudicated the issues elaborately and considered whether the petition filed under Section 47 CPC is to be allowed or not.

3. The scope of Section 47 CPC has been considered by the Rent Control Court elaborately, relying on the judgment of the Hon'ble Supreme Court. It is not in dispute that the petitioner is a judgment debtor and the decree against him is in force. The Rent Control Court relied on the case of the ***Dhurandhar Prasad Singh Vs. Jai Prakash University and Others***¹, in para 24, the Apex Court held that, *“the exercise of powers under Section 47 of the Code is microscopic and lies in a very narrow inspection hole. Thus, it is plain that executing court can allow objection under Section 47 of the Code to the executability of the decree, if it is found that the same is void ab initio and a nullity, apart from the ground that the decree is not capable of execution under*

¹(2001) 6 SCC 534



law either because the same was passed in ignorance of such a provision of law or the law was promulgated making a decree inexecutable after its passing."

4. In the case of ***Pradeep Mehra Vs Harijivan J. Jethwa (Since Deceased Tur. Lrs.) & Others***², the Apex Court held that “a bare perusal of the Section 47 of CPC shows that all questions between the parties can be decided by the executing court. But the important aspect to remember is that these questions are limited to the “execution of the decree”. The executing court can never go behind the decree. Under Section 47, CPC the executing court cannot examine the validity of the order of the court, unless the court's order is itself without jurisdiction.”

5. In the present case, petitioner/judgment debtor had already admitted that Exhibit P5 is the Rental Agreement dated 18-01-2007. The jural relationship has been admitted by the tenant in the rent control proceedings. The appeal filed by him was dismissed, confirming the order of Rent Court. Against the dismissal of CRP, no further appeal has been preferred. Under these circumstances, the Rent Control Court found that the petition filed under



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Section 47 CPC is not entertainable and the Court cannot re-adjudicate the issues already adjudicated and a decree has been passed. This Court do not find any infirmity or perversity in respect of the findings of the Rent Control Court, which is in consonance with the established legal principles and the Rent Control Court rightly considered the scope of Section 47 of CPC in the context of the facts of the present case.

6. Thus, the present CRP is devoid of merits. Accordingly, the order passed in EA No.4 of 2024 in EP No.595 of 2021 in RCOP No.797 of 2015 dated 16.12.2024 on the file of XV Small Causes Court, Chennai stands confirmed and the Civil Revision Petition stands dismissed. The respondent/judgment holder is permitted to execute the warrant already issued by the learned XV Court of Small Causes, Chennai. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order

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To

1.The XV Judge,
The XV Small Causes Court, Chennai



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S.M.SUBRAMANIAM, J.

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