



CRP.No.1088 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 20-03-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1088 of 2025

and CMP.No.6210 of 2025

G.Tamilselvi

..Petitioner/Judgment Debtor

Vs

V.Banumathi

..Respondent/Decree holder

Prayer: Civil Revision Petition filed under Article 115 of CPC to set aside the fair order passed in ATN20220021562D202400194 in E.P.No.497/2024 in O.S.No.4452/2022 on the file of IX Assistant Judge, City Civil Court at Chennai dated 12.12.2024.

For Petitioner: Mr.G.V.Sridharan

For Respondent: Mr.P.Chandrasekar

ORDER



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This Revision Petition has been filed seeking to set aside the order passed in ATN20220021562D202400194 in E.P.No.497/2024 in O.S.No.4452/2022 on the file of IX Assistant Judge, City Civil Court at Chennai dated 12.12.2024.

2. The brief facts necessary for the disposal of this revision petition is as follows:-

The petitioner is the Judgment Debtor. The respondent is the Decree holder, who has filed O.S.No.4452 of 2022 for recovery of money of Rs.4,00,000/- with interest at the rate of 18% per annum from the date of plaint till the date of realization with monthly rents and costs.

3. The trial court by judgment and decree dated 20.04.2023 decreed the suit directing the defendant to pay Rs.4,00,000/- within two months from the date of judgment along with interest from the date of filing of the suit till the date of judgment at the rate of 18% per annum for principal amount and thereafter at the rate of 6% per annum till the date of realization of the amount and further directed the defendant to pay cost to the plaintiff.



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4. The decree has not been set aside till date. The respondent/plaintiff

has filed E.P.No.497 of 2024 in which a petition has been filed under Order XXXXVII Rule 3 of CPC by the Judgment Debtor in Application No.ATN 20220021562D202400194, praying to dismiss the EP. The Executing Court, by order dated 12.12.2024 rejected the said application holding that the objection of the Judgment Debtor is frivolous. The learned Judge, Executing Court, further held that “the decree in O.S.No.4452 of 2022 dated 20.04.2023 was not challenged by JD/defendant; the decree was not satisfied by the JD; hence, above EP was filed to attach the salary of JD to recover the EP claim amount of Rs.4,96,982/-.”

5. The present revision petition has been filed challenging the said order passed by the Executing Court dated 12.12.2024.

6. The learned counsel for the revision petitioner/Judgment Debtor would submit that the petitioner has filed an Appeal seeking to set aside the decree and judgment passed in O.S.No.4452 of 2022 and the said appeal is filed with delay and the same is pending. He would further submit that the net pay of the revision petitioner/Judgment Debtor itself is Rs.11,437/- after deductions and in such circumstances, the court ought not to have ordered for deductions



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under Section 60(1) of CPC. The petitioner, after deduction is given only pay of Rs.11,437/-. Further, the petitioner has to take care of the children. Therefore, he seeks to set aside the order dated 12.12.2024.

7. Per contra, the learned counsel for the respondent/Decree holder would submit that the judgment and decree of the trial court has become final and as on today, the same has not been set aside. The decree amount including arrears as on today i.e., Rs.5,80,000/- as per the Decree Holder. Further the Executing Court has rightly passed the order of deduction in the Application filed by the Judgment Debtor in the Execution Petition which was filed for attachment of salary which is in accordance with Section 60(1)(i) of CPC. He would further submit that the total earnings of the petitioner is Rs.64,183/- and the deduction of Rs.20708/- is only in accordance with Section 60(1)(i) of CPC and therefore the attachment of salary under Garnishee Order, sought by decree holder cannot be faulted and would seek for dismissal of the Civil Revision Petition.

8. Heard the counsel for both sides.



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9. The learned counsel for the petitioner has produced payslip of the revision petitioner for the month of February 2025. This court finds that the total earnings of the petitioner is 64183.00 and the Garnishee order is for Rs.20708/- which is in accordance with Section 60(1) C.P.C. Therefore, this court does not find any error in the order impugned passed by the learned Judge, Executing Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected CMP is closed.

20-03-2025

nvsri

To
The learned IX Assistant Judge,
City Civil Court at Chennai.



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A.D.JAGADISH CHANDIRA, J.

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