



THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 13.08.2025

Order pronounced on : 12.09.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.2065 of 2024
& CMP.Nos.11046 & 11042 of 2024

1.The Chief Internal Audit Officer,
TANGEDCO,
N.P.K.P.R.Maligai,
Mount Road, Chennai.

2.The Secretary,
TNEB, N.P.K.P.R.Maligai,
Mount Road, Chennai.

..Petitioners

Vs.

1.P.Sathiskumar
2.S.Narayanamoorthi

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the docket order dated 02.03.2024 made in E.P.No.83 of 2022 in O.S.No.22 of 2007 on the file of the Subordinate Judge, Udumalpet.

For Petitioners : Mr.Anand Gopalan
for M/s.Agam Legal

For Respondents : Mr.S.Prabhu for R1
Mr.Pa.Sai Govindaraja for R2



ORDER

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The garnishee in execution proceedings, namely the Chief Internal Audit Officer of TANGEDCO and the Secretary, TNEB is the revision petitioners herein.

2.I have heard Mr.Anand Gopalan for M/s.Agam Legal, learned counsel for the petitioners and Mr.S.Prabhu, learned counsel for the 1st respondent and Mr.Pa.Sai Govindaraja, learned counsel for the 2nd respondent.

3.The garnishee/revision petitioners challenges the docket order dated 02.03.2024 in EP.No.83 of 2022, in and by which, the executing Court, finding that the garnishee has not settled the amount, despite several opportunities given, allowed the execution petition and ordered attachment.

4.The learned counsel for the revision petitioners would submit that the 1st respondent/plaintiff filed a suit for recovery of money against the 2nd respondent/defendant. The suit claim was based on a promissory note executed by the 2nd respondent/defendant. The suit came to be decreed on 17.02.2017 for a total sum of Rs.3,39,200/-. In order to execute the decree, the plaintiff filed



EP.No.91 of 2017 and attachment of salary of the judgment debtor, namely the

2nd respondent herein has sought for to an extent of Rs.18,000/- per month. The amount payable in the EP was quantified as Rs.6,51,640/-. The executing Court has ordered notice in the execution petition to the revision petitioners who were arrayed as the garnishee. The judgment debtor remained ex-parte in the execution proceedings as well and though the judgment debtor filed an application in E.A.No.9 of 2019 to set aside the ex-parte order, the application also came to be dismissed. In the meantime, the revision petitioners/garnishee had received notice from the executing Court, directing the executing Court to withhold a sum of Rs.18,000/- from the salary of the judgment debtor and remit the same to the Sub Court, Udumalpet.

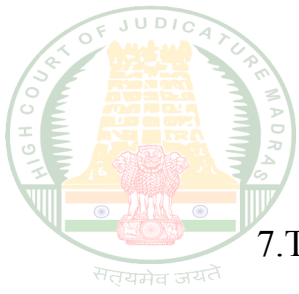
5.The learned counsel for the petitioners would further state that the said direction of the executing Court was complied with by the revision petitioners and a sum of Rs.9,000/- was withheld from the salary for two months and the amounts were remitted to the Court through cheques dated 09.03.2018 and 06.04.2018. Recording satisfaction, the Sub Court closed EP.No.91 of 2017.

6.It is the specific case of the revision petitioners that thereafter, the revision petitioners have not received any notice or directions regarding any



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further attachment of salary, pursuant to the decree in O.S.No.22 of 2017. The learned counsel for the petitioners would further state that the judgment debtor, being an employee of TANGEDCO, as the garnishee was on unauthorised absence from service and no salary was paid to him, with effect from 05.01.2021, parallelly disciplinary action was initiated against him for the unauthorised absence and the proceedings culminated in order dated 06.10.2023, where punishment of compulsory retirement was imposed on the judgment debtor. The appeal preferred by the judgment debtor was also rejected. In the interregnum period, it appears that the decree holder alleging non-compliance by the revision petitioners, has filed EP.No.83 of 2022 under Order XXI Rules 46(A) and 46(B) of CPC, seeking attachment of the salary of the 2nd respondent, quantifying the amount at Rs.6,92,315/-. Even in the said execution petition, the defendant/judgment debtor remained ex-parte and the revision petitioners garnishee alone entered appearance and filed a counter, stating that the garnishee was only required to deduct Rs.18,000/- and the same has been complied with already and thereafter, there has been no further directions to withhold any further amounts, despite the same being brought to the notice by way of a detailed counter affidavit, the executing Court has passed the impugned order.



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7.The learned counsel for the petitioners would further state that though the first EP in EP.No.91 of 2017 was closed way back on 02.07.2019 and the second EP in EP.No.83 of 2022 was filed only on 27.06.2022, by which time, the disciplinary action had also been taken against the judgment debtor/defendant and salary has been withheld right from January 2021 onwards and therefore, it is not possible to attach the salary which was never due and payable to the judgment debtor in the first place.

8.It is also contended by the learned counsel for the petitioners that the delay on the part of the decree holder to realize his folly and the fact that the Court also accepted the deposit of Rs.18,000/- and closed the EP, being an act of Court, cannot prejudice any person, including the garnishee. Therefore, the sum and substance of the argument of the learned counsel for the petitioners is that the revision petitioners cannot be found fault with for not withholding an amount in excess of Rs.18,000/- and the docket order dated 02.03.2024, ordering attachment is liable to be raised.

9.Per contra, it is the contention of the 1st respondent/decreed holder that the judgment debtor, being an employee of the garnishee, the garnishee is obligated to withhold the amounts from the salary of the judgment debtor and



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deposit the same before the Court and he would also invite my attention to the fact that the Court has also recorded that Government staff had appeared personally and sought time for depositing the amount and that thereafter, despite several opportunities given, amount was not deposited into the Court and therefore, the executing Court proceeded to pass an order of attachment invoking Order XXI Rule 46(A) and 46(B) of CPC. He would therefore state that the revision petitioners cannot try to wriggle out and defeat the garnishee order.

10.The learned counsel for the 2nd respondent/judgment debtor would state that the second execution petition has been filed only against the revision petitioners. He would also state that the relief that has been sought for in the second execution petition is only against the garnishee and the judgment debtor cannot be directed to settle the claim of decree holder and amounts payable admittedly to the judgment debtor by the employer, namely the revision petitioners, cannot also be set off and paid to the decree holder.

11.In fact, in order to give a quietus to the matter, I also directed the garnishee/revision petitioners to file an affidavit with regard to the amount payable to the judgment debtor, on his compulsory retirement, with effect from

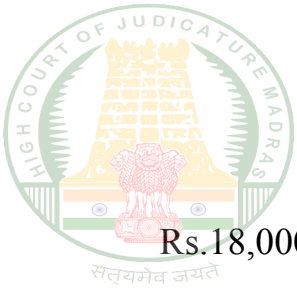


06.10.2023. It is stated on oath by an affidavit dated 27.07.2025 by the Chief

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Internal Audit Officer, Audit Branch TNPDCI that towards Contributory Pension Scheme, a sum of Rs.10,86,097/- and Earned Leave Encashment is Rs.2,37,841/- is due and payable to the judgment debtor. However, it is claimed by the revision petitioner that the judgment debtor is liable to pay a sum of Rs.13,592/- towards Interest on Computer Advance, Rs.5,09,624/- towards Car Advance (Principal + Interest), Rs.18,816/- towards Excess Pay for the period from 19.04.2011 to 30.06.2011, Rs.7,000/- towards Festival Advance and Rs.19,000/- towards Income Tax and after adjustment of the above amounts, only a sum of Rs.7,55,906/-, subject to deduction of tax at source under the Income Tax Act, would be available to be paid to the judgment debtor.

12.The execution petition has been laid for recovering Rs.7,99,635/-. I enquired with the decree holder as to whether the decree holder would be satisfied with receiving a sum of Rs.7,55,906/- in full and final settlement and the learned counsel for the 1st respondent/decreed holder, has, on instructions, agreed to the same. The 2nd defendant has suffered a decree. The decree has become final. His attempt to set aside the decree also went in vain and subsequently, execution proceedings were instituted and by mistake, the revision petitioners/garnishee were called upon only to withhold a sum of



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Rs.18,000/-. The said order of the executing Court was complied with admittedly.

13.The maxim *actus curiae neminem gravabit* would squarely apply to the facts of the present case. The garnishee was only called upon to withhold Rs.18,000/- and it is not disputed that the said order has been complied with by the garnishee. The Court also recorded the said payments deposited by the garnishee and even proceeded to close the execution petition as well. Subsequently, the second execution petition has been filed not only against the garnishee, but also against the judgment debtor, who is shown as the 1st respondent. However, the prayer in the said execution petition was only restricted to the garnishee and not the judgment debtor. The judgment debtor has lost all his rights to challenge the decree in favour of the decree holder and he cannot ride on technicalities and attempt to escape from liability, by turning the tables on the garnishee, his employer.

14.No doubt, it is contended by the learned counsel for the judgment debtor that the directions that are now sought to be applied under various heads are impermissible and the same cannot be allowed. However, as already discussed, as against the decree amount of Rs.7,55,906/-, the decree holder is



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now agreeable to receive a sum of Rs.7,55,906/- as full and final settlement of the decree.

15. Order XXI Rule 46(A) of CPC deals with notice to the garnishee, calling upon the garnishee to pay into the Court the debt due from the garnishee to the judgment debtor or so much thereof as may be sufficient to satisfy the decree and costs of execution. Order XXI Rule 46(B) entitles the executing Court to order the garnishee to comply with the terms of show cause notice and also lay execution proceedings, as though the order against the garnishee was a decree against him.

16. The executing Court ought to have specified the correct amounts to be withheld by the garnishee. However, the Court has committed a mistake and had directed only a sum of Rs.18,000/- to be withheld, which order has admittedly been complied with. Therefore, in the absence of proper notice under Order XXI Rule 46(A), the proceedings could not have been taken against the garnishee under Order XXI Rule 46(B).

17. The judgment debtor also contended that the amounts due and payable to the judgment debtor cannot be released to the decree holder directly, unless

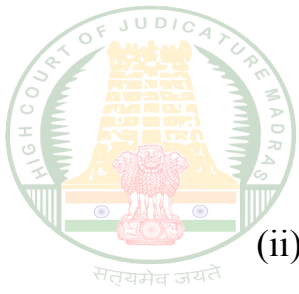


and until the amounts have deposited in Court and attached. It is really

unfortunate that the person who suffers a decree and does not take any bonafide steps to settle the same is harping on technicalities and procedure to be contemplated in terms of Order XXI of the CPC. Rules of procedure are always handmaids of justice and it is not necessary for the Courts to always fall back on the procedure set out in the statute or rules and the ultimate goal is to do substantial justice to the parties and technicalities or rules of procedure should not be put as spokes for the Court, in ultimately serving justice to the parties. In the light of the above, I am not inclined to accept the argument of the judgment debtor that the decree holder is not entitled to the amounts payable to the judgment debtor from the employer, namely, the revision petitioner and that the amount has to go through a deposit before the Court and it has to be attached before it can be paid out to the decree holder.

18. In the light of the above, I am inclined to dispose of the revision as follows:

(i) The docket order dated 02.03.2024 made in E.P.No.83 of 2022 in O.S.No.22 of 2007 on the file of the Subordinate Judge, Udumalpet, is set aside.



(ii) The garnishee shall issue a cheque, favouring the decree holder a sum of Rs.7,55,906/-, across the 1st respondent decree holder executing a full satisfaction memo, recording full and final satisfaction of decree in O.S.No.22 of 2007, within a period of 3 weeks from today.

(iii) It shall be open to the 2nd respondent/judgment debtor to independently canvas the deductions made by the revision petitioners/garnishee towards interest on computer advance, car advance (principal + interest), excess pay for the period from 19.04.2011 to 30.06.2011, festival advance and income tax, totalling, in all, Rs.7,55,906/-, by way of separate proceedings and this order shall not come in the way of the judgment debtor agitating his rights.

(iv) There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

12.09.2025

Speaking/Non-speaking order
Index : Yes/No
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To

1.The Subordinate Judge, Udumalpet.

2.The Chief Internal Audit Officer,
TANGEDCO, Mount Road, Chennai.

3.The Secretary,
TNEB, Mount Road, Chennai.



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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.2065 of 2024
& CMP.Nos.11046 & 11042 of 2024

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