



WEB COPY



CRP.No.5385 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 07.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.5385 of 2024
and CMP.No.29971 of 2024

1.S.Karunakaran
2.K.Revathy

... Petitioners

Versus

S.Rajasekaran

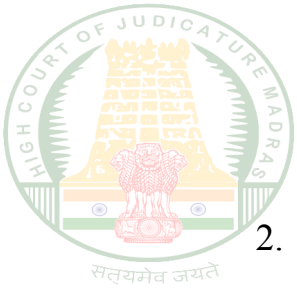
... Respondent

Prayer: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 01.02.2024 passed in E.P.No.4055 of 2023 in O.S.No.3348 of 2014 on the file of IX Assistant City Civil Court, Chennai.

For petitioners : Mr.R.Sachitanandan
For respondent : Mr.S.Lakshminarayanan

ORDER

Challenge has been made to the order passed by the Executing Court in allowing the Execution Petition and posted for sale proceedings, the present revision has been filed.

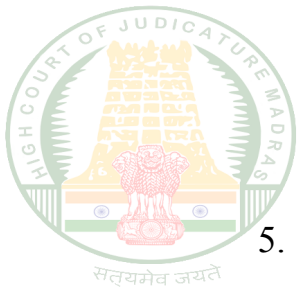


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2. A money decree has been obtained by the respondent for a sum of Rs. 20,06,717/- on the basis of loan agreement said to have been executed by the petitioners. As against which appeal is also filed in A.S.No.161 of 2023, however, no stay has been granted. In the meanwhile, the respondent has filed an application to enforce the decree in E.P.No.4055 of 2023, wherein, the impugned order has been passed and the matter has been posted for filing sale papers by 06.03.2024. Challenging the said order, the present revision has been filed.

3. Heard both sides and perused the materials placed on record.

4. At the outset, this Court is of the view that merely because an appeal is pending, that would not amount to automatic stay of the decree and judgment. Now, the learned counsel for the petitioner would submit that before the appellate court, they had already argued the matter and it is found that the very document relied upon the respondent is not properly stamped. The respondent has filed an application for payment of deficit court fee, that application has been allowed and the matter is pending. Now, the stamp duty penalty has to be paid.



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5. At this stage, the learned counsel for the petitioner submitted that stay application is pending before first appellate Court. Such view of the matter, this Court is of the view that the First appellate Court may consider granting limited stay in the matter till the disposal of the appeal.

6. Accordingly, this revision stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

07.01.2025

Index : Yes / No
Speaking/non speaking order
dhk

To,

1. The IX Assistant Judge
IX Assistant City Civil Court, Chennai

2. The XIV Assistant Judge
XIV Assistant City Civil Court, Chennai

3. The XV Additional Judge
XV Additional City Civil Court, Chennai



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N. SATHISH KUMAR, J.

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