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C.R.P.(NPD) No.5338 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.01.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.5338 of 2024

M/s.Five Star Business Finance Ltd.,

Rep. by its Authorised Signatory,

Mr.CMS Suresh Kumar (Legal Head)

A Company registered under the Companies Act, 1956,

Having its registered Office at:

No.39, Outer Circular Road,

Kilpauk Garden Colony, Kilpauk,

Chennai-600 010.

... Petitioner/Decree Holder/Claimant

-VS-

1. R.Harisingh (Borrower),

2. Soniya (Co-Borrower) ... Respondents/Judgment Debtors/Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC to set aside the order passed against the petitioner / Decree Holder on 29.11.2024 in R.E.P.No.99 of 2024 in A.C.No.ARC/FSBFL/536/2021 on the file of Additional District Court, Hosur and permit the petitioner to contest the above E.P. Proceedings on merits.

For Petitioner : Mr.U.Baranidharan

For M/s.A.S.Neelamarayani

ORDER

Challenging the order of termination of the Execution Petition,
the present Civil Revision Petition has been filed.

2. Originally, a case had been filed for recovery of a sum of



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Rs.14,84,304/-. When the matter was posted by the Executing Court for verification of settlement, it seems that there was no representation on the side of the Decree Holder and a sum of Rs.11,00,000/- & Rs.4,00,000/- had been paid by the Judgment Debtor by way of Demand Drafts dated 28.10.2024 and 07.11.2024 respectively. Based on such remittance of the amount, in the absence of the Decree Holder, the Executing Court has terminated the Execution Petition on the ground that the entire amount has been settled by the Judgment Debtor.

3. Learned counsel for the revision petitioner submitted that on the date of disposal of the Execution Petition, the outstanding amount payable by the Judgment Debtor worked out to Rs.2,86,454/- and merely because the Decree Holder was not present on the particular date, the Execution Petition stood terminated. Hence, learned counsel for the revision petitioner sought for setting aside the order of the Execution Court as well as remanding the matter to the said Court for fresh consideration. He has also filed a calculation memo before this Court to show that the outstanding amount as on 29.11.2024 comes to 2,86,454/-.

4. Finding much force in the submission of the learned counsel



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for the revision petitioner and in order to give an opportunity to the parties concerned to file their the calculation memo, this Court is of the view that the impugned order requires reconsideration and the impugned order of the Executing Court warrants interference by this Court.

5. Accordingly, this Civil Revision Petition is allowed and the impugned order dated 29.11.2024 passed in R.E.P.No.99 of 2024 in A.C.No.ARC/FSBFL/536/2021 by Additional District Court, Hosur, is set aside. The matter is remanded back to the Executing Court for the purpose of affording an opportunity to the Decree Holder to file their calculation memo and on receipt of the calculation memo, the same shall be looked into and thereafter, necessary orders be passed on the Execution Petition on merits and as per law. No costs.

03.01.2025

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To:

Additional District Judge,
Hosur.

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N.SATHISH KUMAR,J.,
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