

K.Manickavelu. Vs. Rajkumar

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Court : Chennai

Decided On : Jul-23-2012

Judge : G.Rajasuria, J.

Acts : [Code of Civil Procedure,\(CPC\) 1908](#) - Order 20 Rule 11; [Constitution of India](#) - Articles 227

Appeal No. : C.R.P.(NPD).No.2703 of 2012 and M.P.No.1 of 2012

Appellant : K.Manickavelu

Respondent : Rajkumar

Advocate for Pet/Ap. : Mr.D.Rajendran, Adv.

Judgement :

Civil revision petition preferred under Article 227 of the [Constitution of India](#) against the order dated 27.06.2012 passed by the learned Subordinate Judge, Arani, Tiruvannamalai District in E.P.No.97 of 2010 in O.S.No.89 of 2009.

ORDER

1. This civil revision petition is focussed by the judgment debtor against the docket order dated 27.06.2012 passed by the learned Subordinate Judge, Arani, Tiruvannamalai District in E.P.No.97 of 2010 in O.S.No.89 of 2009.

2. Heard the learned counsel for the revision petitioner.

3. A thumb nail sketch of the germane facts, absolutely necessary for the disposal of this petition at the threshold itself would run thus:

The learned counsel for the revision petitioner would echo the cri de coeur of the revision petitioner/judgment debtor to the effect that the revision petitioner is an octogenarian, so to say, 81 years old and he has been paying the amounts in instalments. So far he has discharged more than Rs.one lakh and odd out of the total amount of Rs.3,00,000/- and odd. When such is the position, the lower court without any rhyme or reason went to the extent of ordering that a sum of Rs.20,000/- should be paid on or before 26.07.2012 and such an order is against law and unconscionable.

4. I am surprised, on hearing such an argument from the learned counsel for the revision petitioner. The Executing Court has got power to direct the judgment debtor to pay the entire E.P.amount. However, in this case, the Executing Court accepted part payments on several hearings and ultimately the Executing Court taking into account the remaining amount to be paid, ordered that at least a sum of Rs.20,000/- should be paid on or before 26.07.2012.

5. I could see no illegality or impropriety in the order passed. In fact, the Executing Court itself, from the view point of decree holder may have no jurisdiction at all to order instalment payment, when Order 20 Rule 11 of Code of Civil Procedure was not adhered to.

6. Accordingly, I find no merit in this civil revision petition and it is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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