

IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM, VELLORE DISTRICT.

**Present : Thiru.M.N.Rajanandhivarmasiva, B.E., M.L.,  
District Munsif, Gudiyattam.**

Thursday, this the 12 day of September 2024

**EP.86/2023 in LAC 137/2013**

CNR.No.TNVL10-000220 – 2023

State Bank of India  
Sempalli Branch  
represented by its Branch Manager

...Petitioner/Decree Holder.

//Versus//

Viswaraj

...Respondent/Judgment Debtors.

This petition came up before me on 12.09.2024 final hearing in the presence of **Thiru.K.M.Boopathi M.L.**, Advocate for Petitioner/Decree Holder and the Respondent were called absent set exparte hence upon having stood over for consideration, this Court delivered the following

**ORDER**

**Petition filed Under Order 21 Rule 11(2) of CPC to issue notice to Respondent under Order 21 Rule 37 of CPC to realize the Execution amount with interest if the respondent will fail to pay the same pleased to order for arrest and to send him to Civil prison Under Order 21 Rule 38 of CPC to realizing the execution amount and pass such other orders and thus render justice.**

.2.

**1. Brief Averments of the petition :-**

1.1. Petitioner is the Decree Holder in the said EP. Recovery of EP amount due from the Respondent/JDs. Suit for recovery of money against the respondent/J.D and the same was decreed on 23.11.2013. After that the respondent has not made any payment towards the decree inspite of repeated demand and request made by our bank. The respondent has got knowledge about the decree and he wantonly failed to pay the said decree amount. The Respondent has obtained loan from our bank. The respondent is earning a sum of Rs.10,000/- per month and he is having movable and immovable properties worth about morethan Rs.3,00,000/- . The respondent is having movable and immovable properties and he has been in possession and enjoyment of the same. The respondent is having means to pay the decree amount and he wontonly and intentionally failed to pay the siad decree amount. The above said act of the respondent is highly illegal and unlawful. Hence, petitioner filing this Execution petition for Arrest.

**Notice served to the Respondent called absent set exparte.**

**2) Points :-**

**Whether this petition is allowed or not?**

2.1. Carefully perused the available materials and records and argument of the petitioner side.

2.2.The petitioner has not adduced any oral or documentary evidence.

2.3.This execution petition has been filed to order issue notice to the respondent to realize the EP amount with future interest and cost if he will fail to pay the same order for arrest send him Civil Prison.

.3.

2.4. And further perusal, the decree was passed in L.A.C No.137/2013 Dated: 23.11.2013 . But the respondent did not comply the award and he did not pay the any amount and there was no stay. Unless there is stay to execute the decree, there is no impediment to progress further with the execution petition. Considering the same, the decree was passed by the this Court in .A.C No.137/2013 Dated: 23.11.2013 As per the Section 37 of the Civil Procedure Code in explanation the Court of first instance does not cease to have jurisdiction to execute a decree. Considering the same, this Court also have a jurisdiction to execute the decree.

2.5. Therefore, considering the above aspects in aggregate this Court is inclined to allow this petition to enable the decree holder to enjoy the fruits of decree. Accordingly, the respondent is ordered to be arrest.

**In the result this petition is allowed. Arrest by 29.10.2024 Batta in a week.**

Directly Dictated to Steno typed by her, corrected and pronounced by me in the open Court, on this the 12<sup>th</sup> day of september 2024.

Sd/-N.Rajanandhivarmasiva,  
**District Munsif,  
Gudiyattam.**

**Both side Witnesses & Exhibits :- NIL**

Sd/-N.Rajanandhivarmasiva,  
**District Munsif,  
Gudiyattam.**