

**IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: THIRU. K.VENKATESAN, B.A.,B.L.,
DISTRICT MUNSIF, KATPADI.**

Wednesday, this the 22nd Day of November – 2023

**E.P.No. 43 of 2023
In
O.S.No. 98 of 2022
(CNR.No.TNVL23-000150-2023)**

S. Govindhan

.....Petitioner/Decree-Holder

-/Vs/-

R. Sankar

.....Respondent/Judgment-Debtor

This petition has come up today before this Court for orders, and upon hearing the argument of Thiru. S.Mohan Raj, the Counsel for the Petitioner, and on receipt of notice, though the respondent had appeared in Court but he has failed to file Counter & was called absent and set ex-parte on 12.09.2023, and upon perusing the petition, means evidence, and the available material records, and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition has been filed by the petitioner/decree-holder to recover the execution petition mentioned amount from the respondent, and on his failure, to arrest and detain him in civil prison under Order 21, 37 and 38 of Civil Procedure Code.

1. In petition Affidavit stated that the petitioner is the Decree-Holder in above Execution Petition, and he obtained judgment & decree in favour of him against the

respondent/defendant and the respondent is liable to pay the amounts borrowed from the petitioner along with interest as per Judgment & Decree. But, as on date, the respondent did not come forward to pay the amount and thus, he disobeyed the Decree of this Court. Hence, the petitioner filed this Execution Petition against the respondent.

2. On due receipt of notice, the Respondent had appeared in Person, but even after granting time to him by this Court, he has failed to file Counter and he was called absent and set ex-parte on 12.09.2023.

3. In order to prove the means, the petitioner/decree-holder Thiru. S.Govindhan was examined himself as PW-1 and no documents were marked.

4. The petitioner counsel argued that the respondent has borrowed loan from the petitioner, and the respondent had failed to repay the loan dues, and then, the petitioner has filed the suit against the respondent for recovery of money before the Hon'ble District Munsif Court, Katpadi in O.S.No.98/2022, and an Ex-parte Decree also passed in favour of the petitioner, hence the present execution petition has been filed against respondent to recover the Decree Amount, and further, in the execution proceedings, the respondent has received the notice and appeared in person but even after took time, he has failed to file Counter, and he was called absent and set ex-parte, and the petitioner deposed evidence to prove the means of the respondent, and there is no contra evidence produced by the respondent, and prayed to allow this petition.

5. **Points for Consideration:-**

- a) Whether the petition is entitled to be allowed or not?

6. **Answering to the Point:-**

6.1 Heard. Records Perused. On perusal of records it is seen that the Ex-parte Decree was passed in O.S.No.98 of 2022 on 18.02.2023 by this Court, in favour of the petitioner, by directing the respondent to pay the suit claim amount sum of Rs.79,233/- along with interest at the rate of 24% p.a., on the Principal Amount of Rs.50,000/- and also directed to pay the future interest at the rate of 6% p.a., on the said Principal Amount from the date of decree to till the date of realization of amount along with Rs.3,544/- as the cost of the suit. No payment was made by the respondent to the petitioner towards the Decree Amount. Since, the respondent had not complied with Decree dated: 18.02.2023, the petitioner had filed this execution petition against the respondent.

6.2 The Respondent has appeared in Person in Court but has failed to file Counter and was called absent and set ex-parte on 12.09.2023.

6.3 Means evidence was recorded. The petitioner was examined as PW-1 by way of proof affidavit and he deposed evidence stating that the respondent is having movable and immovable properties worth of several lakh and doing work & business and earning monthly a sum of Rs.25,000/- per month, and having sufficient means to pay the Decree Amount, however, intentionally evading to comply. That there is no rebuttal evidence.

6.4 Considering the above all facts, this court satisfied that the respondent having sufficient means failed to make payment towards the said decree amount. Having established the stated facts by the petitioner, this Court decides that the petitioner is entitled for the relief of recovery of amount mentioned in this petition. Accordingly, the point number is answered in favour of the petitioner.

7. **Result:-**

From the above discussions, in the interest of justice, this Execution Petition is allowed.

Arrest by 19.12.2023. Batta within 3 days.

-//Dictated by me to the Steno-typist, who directly typed the same, corrected and pronounced by me in the Open Court, on this the 22nd Day of November – 2023.//-

DISTRICT MUNSIF
KATPADI

Petitioner side Witnesses:-

P.W-1 – S.Govindhan (The Petitioner)

Petitioner side Exhibits:- - Nil

Respondent side Witnesses and Exhibits:- - Nil

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