



C.M.A.No.163 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2026

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

C.M.A.No.163 of 2026
and
C.M.P.Nos.1922 & 1923 of 2026

1. N.Dhanikachalam
2. N.Dasarah
3. K.K.Srinivasan
4. N.Prabakaran ... Appellants

Vs.

1. R.P.Mohan
2. Gunavathi ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Order XLIII Rule (1) (q) of the Code of Civil Procedure, against the order and decreetal order in I.A.No.2 of 2023 in O.S.No.26 of 2023 dated 14.02.2025, on the file of the Additional District Court, Krishnagiri.

For Appellants : Mr.C.Jagadish

For Respondents : Mrs.Jayachitra



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JUDGMENT

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This civil miscellaneous appeal has been filed under Order XLIII Rule (1)(q) of the Code of Civil Procedure, against the order and decretal order passed in I.A.No.2 of 2023 in O.S.No.26 of 2023 dated 14.02.2025, by the learned Additional District Judge, Krishnagiri.

2. The appellants are the plaintiffs and the respondents are the defendants before the trial Court. The appellants filed a suit in O.S.No.26 of 2023 seeking for the relief of recovery of money to the tune of Rs.4,26,70,000/- along with interest. During the pendency of the suit, the appellants filed an application in I.A.No.2 of 2023 seeking attachment of the suit properties under Order XXXVIII Rule 5 of the Code of Civil Procedure. When this application was taken up, the defendants offered the 'B' Schedule property as security. Accepting the same, the trial Court closed the said application by an order dated 21.07.2023.

3. Aggrieved by the above order, CMA No.2239 of 2023 was filed by the plaintiffs before this Court. This Court, by an order dated 07.12.2023, set aside the order passed by the trial Court and remitted the application back to the file of the trial Court with a direction to decide the



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application on merits within a time frame and also directed the defendants not to alienate the 'B' Schedule property without the permission of the Court in the mean time.

4. Pursuant to the order, the matter was once again taken up for hearing before the trial Court. The defendants filed a memo to the effect that both the 'A' and 'B' schedule properties could be taken as security. Recording the same, the trial Court passed an order on 14.02.2025. Aggrieved by the said order, the present appeal has been filed before this Court.

5. Heard Mr.C.Jagadish, learned counsel for the appellants/plaintiffs and Mrs.Jayachitra, learned counsel for the respondents/defendants.

6. The main grievance that was expressed on the side of the appellants is that the trial Court simply recorded the value quoted by the defendants and acted upon the memo and passed an order without independently directing a valuation of the property to ascertain whether the value of those properties are in tandem with the amount sought to be



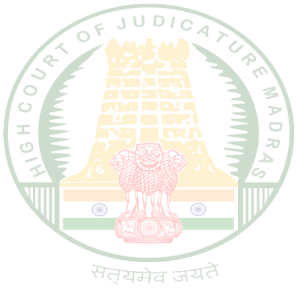
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recovered by the plaintiffs. Hence, it is contended that the trial Court did not follow the specific directions issued by this Court when the earlier civil miscellaneous appeal was disposed of.

7. When the matter came up for hearing today, this Court insisted that some time frame can be fixed for the disposal of the main suit itself, since it was filed in the year 2023. In the mean time, the defendants can undertake not to alienate or encumber the 'A' and 'B' schedule properties. If such an undertaking is given by the defendants, it will not be necessary for this Court to test the legality or otherwise of the order passed by the trial Court.

8. Learned counsel appearing on either side submitted that they are interested in the disposal of the main suit within a time frame fixed by this Court.

9. Learned counsel for the respondents/defendants submitted that the defendants will not alienate or encumber the 'A' and 'B' schedule properties, which were given by them as security.



10. In the light of the above submissions made by the learned counsel for the respondents/defendants, the said undertaking can be recorded by this Court and a direction can be given to the trial Court to dispose of the main suit within the time frame.

11. At this juncture, the learned counsel appearing for the appellants submitted that as on today, there is no mechanism provided either under the Civil Procedure Code or the Civil Rules of Practise to ascertain the value of a property that is furnished as security.

12. The learned counsel drew the attention of this Court to Order XXXIII Rule 6 of the OS rules, which specifically provides the procedure to test the security and to ascertain the value of the property.

13. The learned counsel submitted that a standard procedure must be evolved for the trial Courts to follow, which must be akin to Order XXXIII Rule 6 of the OS rules.

14. This Court finds lot of force in the submission made by the learned counsel for the appellants. Many a time, the entire dispute revolves



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around testing the security and ascertaining its value and since no standard procedure has been prescribed either under the Code of Civil Procedure or under the Civil Rules of Practice, parties waste their time in prosecuting such application instead of focusing their energy on the main suit.

15. In view of the above, this Court makes a request to the Hon'ble Chief Justice of this Court to refer this issue to the Rules Committee to formulate rules to be followed by the district judiciary across the State of Tamil Nadu for testing security akin to Order XXXIII Rule 6 of the OS rules. Such a rule will go a long way in providing a standardised procedure to test security furnished before the Court.

16. In the result, this Civil Miscellaneous Appeal is disposed of with a direction to the respondents/defendants not to alienate or encumber the 'A' and 'B' schedule properties, pending disposal of the suit.

17. It is brought to the notice of this Court that the suit is at the stage of trial. Hence, there shall be a direction to the learned Additional District Judge, Krishnagiri, to dispose of the suit in O.S.No.26 of 2023 within a period of four (4) months from the date of receipt of a copy of this



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judgment. Upon disposal of the suit, a compliance report shall be filed

before this Court. No costs. Consequently, connected miscellaneous petitions are closed.

30.07.2026

Neutral Citation: Yes/No
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To

1. The Additional District Judge,
Additional District Court,
Krishnagiri.
2. The Section Officer,
VR Section,
High Court of Madras.



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N. ANAND VENKATESH, J.

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and
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