



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.550 of 2023

M.Periyasamy
S/o.Murugan

..Petitioner

Vs

1. P.Jayachandran
S/o.P.K.Parthasarathy
2. P.Datchayani
D/o.P.K.Parthasarathy
3. P.Harinath
S/o.P.K.Parthasarathy
4. P.Nirmala
D/o.P.K.Parthasarathy
5. P.Thilagavathi
W/o.P.K.Surundar Babu

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.1 of 2021 in O.S.No.98 of 2021 by the Additional District Judge, (Fast Track Court), Vellore, on 29.07.2022.

For Petitioner : Mr.N.Elayaraja

For Respondents : Mr.A.Karthikeyan



ORDER

This civil revision petition has been filed under Article 227 of the Constitution of India against the order passed in I.A.No.1 of 2021 in O.S.No.98 of 2021 by the Additional District Judge, (Fast Track Court), Vellore, dated 29.07.2022, wherein the application filed by the petitioner/plaintiff under Order 38 Rule 5 CPC seeking a direction to respondents to furnish security and on failure to attach the property before judgment, came to be dismissed by the Court below.

2. Heard learned counsel for petitioner and learned counsel for respondent and carefully perused the materials available on record. This Court also went through the impugned order.

3. The suit has been filed in O.S.No.98 of 2021 seeking recovery of money paid as an advance amount to the tune of Rs.22,00,000/- when the petitioner entered into an agreement of sale dated 17.07.2021 with the defendants. A written statement was filed by the first defendant wherein the defendants took a stand that to show their bonafides they even agreed to repay the advance amount with interest.

4. The petitioner apprehended that the defendants are in the process of alienating the only property that is available as security and thereby, it will



defeat the claim made by the petitioner. Hence, I.A.No.1 of 2021 in O.S.No.98 of 2021 was filed under Order 38 Rule 5 CPC to direct the defendants to furnish security and on default to pass an order of attachment before judgment. The Court below has dismissed the application on the ground that the petitioner has not made necessary averments in the affidavit filed in support of the application.

5. In the considered view of this Court, the suit has been filed for recovery of advance amount paid by the petitioner and there is no serious objection with respect to agreement of sale entered into between the parties and the advance amount that was received. The apprehension of the petitioner is fortified by the fact that the defendants have entered into a sale agreement with a third party on 26.07.2021 and are in the process of alienating the property and according to the petitioner, it is done only to defeat the right of the petitioner, who will not be able to recover the money even if ultimately the suit is decreed. Unfortunately, the Court has not taken into account this crucial fact. In view of the same, the order passed by the Court below is liable to be interfered with by this Court.

6. Accordingly, the order passed in I.A.No.1 of 2021 in O.S.No.98 of 2021 by the Additional District Judge, (Fast Track Court), Vellore, dated 29.07.2022, is set aside. There shall be a direction to respondents/defendants to furnish security for the suit claim made by the petitioner within a period of four



N.ANAND VENKATESH, J.

gm

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(4) weeks from the date of receipt of a copy of this order. If the security is not furnished as directed by this Court, the Court below is directed to pass further orders.

In the result, this civil revision petition is disposed of with the above direction. No costs.

18-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gm

To
The Additional District Judge,
(Fast Track Court),
Vellore.

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