



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 25.02.2015

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P (NPD) (MD) No.340 of 2015

R.Rajendran

..Revision Petitioner/Petitioner/Third party

Vs.

1.M.S.Siva Tex Yarn Limited,
(formerly M/s.Annamalai
Finance Limited),
252, Mettupalayam Road,
Coimbatore - 641 043.

2.M.Subbulakshmi

3.V.S.Muthuraj

4.Velmurugan

..Respondents 2 to 4/2 to 4 Respondents/
2 to 4 Respondents/1 to 3 Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying this Court to allow this revision by setting aside the impugned order passed in E.A.No.10 of 2013 in E.P.No.16 of 12 in A.P.No.25 of 2008 passed by the Principal District Judge, Virudhunagar District at Srivilliputhur.

For Petitioner :M/s.G.Mariappan

ORDER

The revision Petitioner, who is the third party purchaser of the property has filed an application in E.P.No.16 of 2012 to raise the order of attachment over the property purchased.

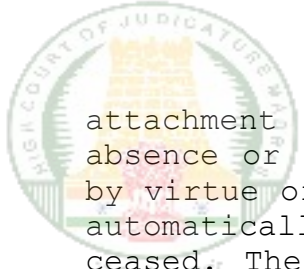
2.The said E.A.No.10 of 2013 was dismissed by the Principal District Judge, Virudhunagar District at Srivilliputhur holding that "the main E.P. Is dismissed, hence, the E.A is also closed".

3.Order 21 Rule 57(1) (2) reads as under:

"57.Determination of attachment.--(1) Where any property has been attached in execution of a decree and the Court, for any reason, passes an order dismissing the application for the execution of the decree, the Court shall direct whether the attachment shall continue or cease and shall also indicate the period up to which such attachment shall continue or the date on which such attachment shall cease.

(2) If the Court omits to give such direction, the attachment shall be deemed to have ceased.)

4.As per the above rule, when the E.P is either dismissed or closed, the Court shall direct whether the attachment shall continue or cease and if it continues it shall also communicate to the party for which the



attachment continue. The Clause(2) specifically indicates that in the absence or any such direction, the attachment deemed to have been ceased by virtue of the deeming provision in the above rule. Once E.P is closed, automatically in the absence of specific direction, the attachment ceased. Therefore, there is no necessity for a specific order. However, the learned counsel for the Petitioner contends that the attachment has already been notified by the Registrar. Therefore, he had filed another memo in E.A.No.10 of 2013 for a direction to communicate the raising of the attachment by the District Court by virtue of order 21 Rule 57(2) of Civil Procedure Code. Unfortunately the said memo was also returned by the District Court holding that wherever the execution Petition is filed by the decree-holder, it is open to the revision Petitioner to move appropriate petition. The learned District Judge had lost sight of the provision which is a High Court amendment inserted as Rule 58-A which reads as under:

"58-A. Order of attachment to be communicated to the Registering Officer:-- Any order of attachment passed under Rule 54 of this Order raising the attachment by removal, determination or release passed under Rules 55, 57 or 58 of this Order, shall be communicated to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such order is situate."(Amendment dated 29.6.1987).

5.By virtue of the said amendment, it is the duty of the District Court to communicate to the Registering Officer where the order of attachment has been communicated earlier about the removal or raising of attachment also. The learned District Judge, has not exercised the powers vested with him by not giving such direction to the Registering Authority. Therefore this Court is inclined to direct the District Judge, Virudhunagar at Srivilliputhur to communicate to the Registering Officer about the automatic raising of the attachment by virtue of order 21 Rule 57(2) of Civil Procedure Code, within a period of two weeks from the date of production of a copy of this order.

6.With the above direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

- 1 The Principal District Judge, Virudhunagar at Srivilliputhur.
- 2 The District Judge, Virudhunagar at Srivilliputhur.

+1CC to M/s.Marriappan, Advocate in SR.8632

C.R.P(NPD) (MD)No.340 of 2015
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vsn

PBK 09/03/2015 ::2P-4C: