

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.3324 OF 2014
AND MP NO.1 OF 2014

Kanimozhi

... Petitioner

Versus

Kaliaperumal

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 12.02.2013 passed in I.A.No.355 of 2013 in O.S.No.73 of 2013 on the file of the Principal Subordinate Judge, Virudhachalam.

For Petitioner : Mr.P.Mani
For Respondent : Ms.R.Sumathi

ORDER

The respondent filed a suit in O.S.No.73 of 2013 against the petitioner for a money decree. In the said suit, the respondent filed an

application in I.A.No.138 of 2013 for an order for attachment before judgment. Before the Trial Court, the petitioner undertook not to assign the property which was shown in the schedule to the application in I.A.No.138 of 2013.

2. The respondent thereafter filed an application in I.A.No.355 of 2013 to provide Bank Guarantee in the place of collateral security. The application was dismissed by the Trial Court on the ground that the petitioner violated the undertaking by selling the property which was the subject matter of the undertaking during the currency of the application in I.A.No.138 of 2013. Feeling aggrieved, the petitioner has come up with this Civil Revision Petition.

3. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

4. The application to give Bank Guarantee in I.A.No.355 of 2013 was dismissed only on the ground that the petitioner violated the undertaking and sold the property which was shown in the schedule to the application in I.A.No.138 of 2013. The application in I.A.No.138 of 2013 was filed for an order of attachment before judgment. The Trial

Court is yet to fix the liability on the petitioner. Even before passing the decree, on an apprehension that the petitioner would sell the property, the respondent filed the application for attachment. Since the petitioner has produced the Bank Guarantee, the learned Trial Judge ought to have accepted it instead of dismissing the application in I.A.No.355 of 2013.

5. In view of the background facts, I deem it fit to permit the petitioner to produce the Bank Guarantee after due revalidation to cover the amount shown in I.A.No.355 of 2013. The Bank Guarantee shall be produced on or before 05.12.2016 and on such production, the learned Trial Judge shall raise the attachment.

6. The impugned order dated 12.02.2014 in I.A.No.355 of 2013 in O.S.No.73 of 2013 is set aside.

7. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2016

TK

K.K.SASIDHARAN, J.

TK

To

The Principal Subordinate Judge
Virudhachalam.

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