

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.1917 of 2013  
and M.P.No.1 of 2013

S.Dashan

... Petitioner

Vs.

1.The Treasury Officer,  
District Treasury, Collectorate,  
Erode-11.  
2.S.Manonmani  
3.S.Aravindh  
4.S.Manjula

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 05.07.2012 made in C.M.A.No.47 of 2011 on the file of the I Additional District Judge, Erode confirming the fair and decretal order dated 21.12.2009 made in I.A.No.56 of 2009 in O.S.No.17 of 2009 on the file of the learned Principal Subordinate Judge, Erode.

For Petitioner : Mr.N.Manokaran

### **ORDER**

The defendant in O.S.No.17 of 2009 on the file of the Sub Court, Erode, suffered an order of attachment before judgment, regarding his leave salary that became payable on his retirement on attaining the age of superannuation. As against the order of attachment before judgment, he preferred a Civil Miscellaneous Appeal before the lower appellate court in C.M.A.No.47 of 2011. The said appeal came to be dismissed by the lower appellate court on 05.07.2012. As against the said order passed in the Civil Miscellaneous Appeal, the present Civil Revision Petition has been preferred.

2. Despite service of notice, respondents have not chosen to enter appearance.

3. Learned counsel for the petitioner now brings it to the notice of the court that the original suit itself came to be dismissed for non-prosecution on 26.06.2013 itself and no application for restoring the same came to be filed, within the time allowed by the rules under the Code of Civil Procedure, 1908.

4. According to the submissions made by the learned counsel for the petitioner, the dismissal of the suit for non-prosecution, coupled with a failure to apply for restoration within the time allowed by the rules under the Code of Civil Procedure, 1908, has caused the automatic raising of the attachment. Since the said developments occurred during the pendency of the present Civil Revision Petition, the Civil Revision Petition itself has become infructuous. In view of the said representation, which is also fortified by the copies of the judgment and decree dated 26.06.2013 made in the original suit, this Court is of the view that the attachment made before judgment, no longer subsists as it shall stand vacated. The Civil Revision Petition is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is closed.

16.02.2016

Index : Yes/No  
Internet : Yes/No

gya

P.R.SHIVAKUMAR, J.

gya

To  
The I Additional District Judge,  
Erode.

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