

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.562 of 2016

R.Palanisamy

... Petitioner

vs.

Smt.S.Vijayalakshmi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order of the IV Additional District and Sessions Judge, Coimbatore dated 16.11.2015 made in I.A.No.218 of 2015 in O.S.No.339 of 2015.

For Petitioner : Mr.R.Palanisamy

For Respondent : Dr.C.Ravichandran

ORDER

Though the respondent has entered appearance through counsel, there is no representation for the respondent. The arguments advanced by Dr.C.Ravichandran, learned counsel for the petitioner are heard.

2. The revision has been filed against the order of the trial court dismissing an application for attachment before judgment. The suit claim is for damages. Though the petitioner has chosen to produce a third party affidavit, which simply contains an averment that the respondent is the owner of the

property sought to be attached. The bald allegation in the affidavit of the petitioner is that the respondent is making hasty attempts to encumber the property so as to defeat the claim of the petitioner, shall not sufficient to grant an order of attachment before judgment. The affidavit does not contain an averment to the effect that if such encumbrance regarding the property is made, there will be no other source from which the petitioner can realise the amount if any, that may be decreed. In the said circumstances, the finding of the court that it is not a fit case in which attachment before judgment can be ordered, cannot be said to be defective or erroneous, warranting interference by this court in exercise of its power of superintendence under Article 227 of the Constitution of India. The civil revision petition deserves dismissal.

Accordingly, the civil revision petition is dismissed. However, there shall be no order as to cost.

17.03.2016

Index : Yes/No
Internet : Yes
asr

To

The IV Additional District and Sessions Judge, Coimbatore

P.R.SHIVAKUMAR, J.

asr/-

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