



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Thirtieth day of September Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Ms.Justice V.M.VELUMANI

CMP(MD) No.4043 of 2016
IN
AS(MD) No.59 of 2012

A.H.DAWOOD KHAN,

..PETITIONER/APPELLANT

Vs.

S.ZEENATH PAREETHA,

..RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner to withdraw the sum of Rs.23,00,000/- together with accrued interest, now lying to the credit of O.S.No.51 of 2009, on the file of the First Additional District Judge, Madurai, pending disposal of the above A.S.(MD)No.59 of 2012 on the file of the Honourable Court.

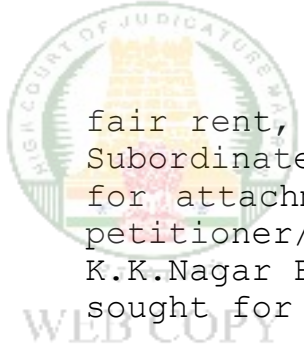
ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.SUBBIAH, Advocate for the petitioner and of Mr.S.SITHARTHAN, Advocate on behalf of the Respondent, the court made the following order:-

[Order of the Court by **M. SATHYANARAYANAN, J.**]

A perusal of the typed set of papers would disclose that a sum of Rs.23,00,000/- deposited by the appellant/plaintiff before the Principal District Court, Madurai, in O.S.No.51 of 2009, ordered to be deposited, was redeposited in Central Bank of India, K.K.Nagar Branch in F.D.R.No.071287 and a sum of Rs.21,00,000/- deposited by the respondent / defendant, in turn, ordered to be redeposited in Andhra Bank, South Masi Street Branch in F.D.R.181787.

2. Mr.S.Subbiah, learned Senior Counsel appearing for the petitioner/appellant would submit that since the petitioner/appellant is carrying on business and for business purposes, he is in urgent need of money and prays for permission to withdraw the amount of Rs.21,00,000/- deposited by him.

3. *Per contra*, learned Counsel appearing for the respondent/respondent would submit that for effecting recovery of arrears of rent being the difference amount of contract rent and



fair rent, he filed O.S.No.1267 of 2015 on the file of the Principal Subordinate Judge and pending disposal, I.A.No.641 of 2015 was filed for attachment before the judgment of the amount deposited by the petitioner/appellant lying to the credit of Central Bank of India, K.K.Nagar Branch, in F.D.R.071287 and therefore, opposing the prayer sought for by the petitioner / appellant herein.

4. In response to the said submission, learned Counsel for the petitioner / appellant would submit that O.S.No.81 of 2015 instituted by the respondent / respondent, for the very same relief, the plaint came to be rejected by the Court below and challenging the legality of the same, Civil Revision Petition is filed and the same is pending on the file of this Court and insofar as application for attachment filed by the respondent / respondent in O.S.No.1267 of 2015, the suit is wholly untenable and prays for appropriate orders.

5. This Court has considered the rival submissions and perused the materials available on records.

6. In the light of pending I.A.No.641 of 2015, this Court is not in a position to pass orders in the present application and therefore, the remedy open to the petitioner / appellant to approach the said Court for early disposal of the said application. This Court taking into consideration the facts and circumstances is of the view, it would be suffice to direct the Court of Principal Subordinate Judge, Madurai, to expedite the disposal of I.A.No.641 of 2015 in O.S.No.1267 of 2015.

7. In the result, this petition is disposed of and the Court of Principal Subordinate Judge, is directed to dispose of I.A.No.641 of 2015 in O.S.No.1267 of 2015, as expeditiously as possible and not later than four weeks from the date of receipt of a copy of this order. It is made clear that the parties to the said application shall extend their maximum cooperation for the disposal.

sd/-

30/09/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE FIRST ADDITIONAL DISTRICT JUDGE, MADURAI.
- 2 THE PRINCIPAL SUBORDINATE JUDGE, MADURAI.

+1. C.C. to M/S. S.SUBBIAH Advocate SR.No.58205
+1cc to M/s.S.SITHARTHAN, Advocate in SR.57555

ORDER IN
CMP(MD) No.4043 of 2016
IN AS(MD) No.59 of 2012
Date :30/09/2016