



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2341 of 2015 (PD)

and

M.P(MD)No.1 of 2015

P.Ashok Kumar

.. Petitioner/Petitioner/Plaintiff

Vs.

K.Selvaraj

.. Respondent

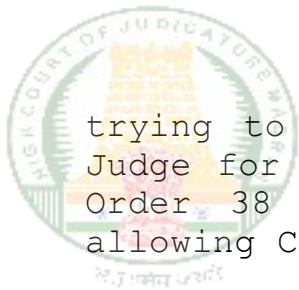
PRAYER: Civil Revision Petition is filed, under Section 115 of Code of Civil Procedure, to set aside the order dated 14.09.2015 passed in I.A.No.115 of 2015 in O.S.No.22 of 2015 on the file of the Principal District Judge, Karur and allow the above Civil Revision Petition.

For Petitioners : Mr.D.D.Anandan

ORDER

The petitioner is the plaintiff whereas the respondent is the defendant in the suit in O.S.No.22 of 2015, on the file of the Principal District Judge, Karur. The petitioner filed suit for recovery of money based on the promissory note. Along with suit he has filed I.A.No.115 of 2015, for attachment before judgment of the immovable property belonging to the respondent. According to the petitioner, he came to know about the same from one A.Elavarasan that the respondent is trying to alienate the property with an intention to defeat and delay the interest of petitioner. The respondent filed counter affidavit and denied having executed the promissory note and borrowed money. He also stated that he is not taking any steps to sell the property. The learned Judge considering the affidavit and counter affidavit filed by the petitioner and the respondent and taking note of the fact that the respondent is not taking any steps to sell the property, dismissed the application filed by the petitioner holding that the petitioner did not satisfy the ingredients of Order 38 Rule 15. Against the said order of dismissal, the petitioner has come out with the present petition for Revision.

2.The learned counsel for the petitioner submitted that the <https://hcjudgements.gov.in/hcjudgements/> did not properly appreciate the facts and circumstances of the case. The petitioner has categorically stated that he came to know through one A.Elavarasan that respondent is



trying to sell the property. The reasons given by the learned Judge for dismissing the application is contrary to provisions of Order 38 Rule 15 of Code of Civil Procedure and prayed for allowing Civil Revision Petition.

3. I have heard Mr.D.Anandan, learned counsel appearing for the petitioner and also carefully perused the entire materials on record.

4. From the materials, it is seen that apart from making a statement that the petitioner came to know the fact through one Elavarasan that the respondent is trying to sell the property, no other material was produced before the Court to substantiate the claim of the petitioner. The respondent has denied the said allegations. The learned Judge considered the averments made by the petitioner and respondent and held that the petitioner has not made any case for attachment before judgment. The learned Judge has given valid and sufficient reasons for dismissing the application and there is no reason warranting interference by this Court.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

6. The learned counsel for the petitioner seeks early disposal of the suit. Considering the submission of the learned counsel for the petitioner, the learned Principal District Judge, Karur, is directed to dispose suit as early as possible, in any event not later than 31st July, 2016.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Principal District Judge,
Karur.

+One CC to Mr.D.Anandan, Advocate in Sr.No. 10109

CN/SKS-RR/8.03.2016/2P-3C

C.R.P (MD) No.2341 of 2015 (PD)