



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(NPD) (MD).No.319 of 2016 and

CMP(MD).No.1387 of 2016

V. Somasundaram

: Petitioner

Vs.

M/S. Easan Electric,
rep. Through its Proprietor,
S.N. Arunachalam

: Respondent

Civil Revision Petition is filed under Article 227 of the constitution of India against the fair and decreetal order passed in I.A.No.277 of 2015 in O.S.No.73 of 2015 on the file of the Principal District Judge, Virudhunagar District @ Srivilliputur, dated 16.10.2015.

For Petitioner : Mr. J. Asok

For Respondent : Mr. N. Dilipkumar

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.277 of 2015 in O.S.No.73 of 2015, on the file of the learned Principal District Judge, Virudhunagar District @ Srivilliputur, dated 16.10.2015.

2. The respondent / plaintiff has filed a suit in O.S.No.73 of 2015 for recovery of money i.e. a sum of Rs.41,99,520/-. Pending suit, he filed I.A.No.277 of 2015, for attachment of the property belonging to the petitioner, before the judgement. The revision petitioner / defendant filed a counter affidavit denying the claim of the respondent. He also stated that he and his family members are carrying on business and will not leave the jurisdiction of the Court. The learned Trial Judge considering all the materials available on record, directed the petitioner to furnish security to the tune of Rs.45,00,000/-, on or before 24.11.2015. The petitioner did not furnish the security. Therefore, the attachment before judgment has been ordered. Against the said order, the present revision has been filed.

3. The learned counsel appearing for the petitioner submitted that the property attached is worth about Rupees Ten Crores and the suit claim is only for Rs.41,99,520/-. The petitioner's family carrying on business in the name and style of "Lion Transport" for 100 hundred years and also doing various business at Thirunelveli. The respondent has suppressed the fact that the petitioner and one Mohammed Nazar had entered into an agreement of sale on 22.09.2014 with a view to mislead the Court. The learned Judge erred in attaching the entire property.

4. Further, at the time of hearing, the learned counsel appearing for the petitioner filed an affidavit of undertaking to furnish the Bank Guarantee for a sum of Rs.45,00,000/- as security,



towards the suit claim till the disposal of the suit and also undertake to provide alternate surety if needed.

5. The learned counsel appearing for the respondent submitted that the petitioner is going to sell the property for more than Rupees Ten Crores. Hence, this Court may be directed the petitioner to deposit a sum of Rs.45,00,000/- to the credit of suit in O.S.No.73 of 2015 on the file of the learned Principal District Judge, Virudhunagar District @ Srivilliputur.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. Considering these facts, the order of attachment shall be raised on condition that the petitioner furnishes the Bank Guarantee for Rs.45,00,000/- (Rupees Forty Five Lakhs only), within a period of two weeks from today, to the satisfaction of the learned Principal District Judge, Virudhunagar District @ Srivilliputur to the credit of O.S.No.73 of 2015, on the file of Principal District Court, Virudhunagar at Srivilliputur, initially for a period of one year. The petitioner shall renew the Bank guarantee periodically, till the disposal of the suit. If the petitioner fails to furnish the Bank Guarantee within the time prescribed by this Court, the Civil Revision Petition shall stand dismissed automatically and the order passed in I.A.No.277 of 2015 shall be confirmed.

8. Accordingly, the Civil Revision Petition is disposed of. The learned Principal District Judge, Virudhunagar District @ Srivilliputur, is directed to dispose the suit in O.S.No.73 of 2015, as expeditiously as possible, in any event not later than 31st July 2016. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar(AS)

/TRUE COPY/

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

To

The Principal District Judge, Virudhunagar District @ Srivilliputur.

+1cc to M/S.N.Dilip Kumar, Advocate in SR.No.7954

+1cc to M/S.J.Ashok, Advocate in SR.No.7959

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10.02.2016

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PA/SK-SKN/SAR I/15.02.2016/2P/4C (IT)