



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.505 of 2016 and CMP(MD).No.2163 of 2016

Rajendran : Revision Petitioner/Plaintiff

Vs.

V. Selvaraj : Respondent

Prayer: The Civil Revision Petition is filed under Section 115 of CPC against the fair and decreetal order dated 03.11.2015 made in I.A.No.96 of 2014 in O.S.No.33 of 2014 on the file of learned Principal District Judge, Dindigul District.

For Petitioner : Ms. S. Vijayashanthi

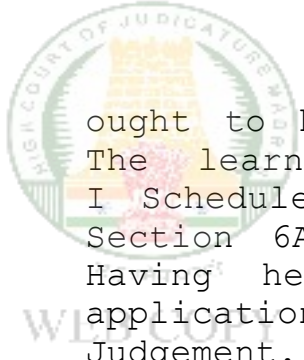
ORDER

The Civil Revision Petition is filed against the fair and decreetal order, dated 03.11.2015 made in I.A.No.96 of 2014 in O.S.No.33 of 2014 on the file of learned Principal District Judge, Dindigul District.

2. The revision petitioner is the plaintiff. The respondent is the defendant.

3. The revision petitioner filed a suit in O.S.No.33 of 2014 for recovery of money, based on promissory note. Along with the suit, he has filed an application in I.A.No.96 of 2014, for attachment of the petition mentioned property before Judgment. The respondent filed counter and stated that he already sold the property sought to be attached before the Judgment to third party. The learned Judge considering the sale deed and encumbrance certificates filed by the petitioner and respondent dismissed the application. Against that, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel appearing for the petitioner submitted that the learned Judge ought to have seen that the respondent sold the property with fraudulent intention. Further, the learned Judge has taken note of the fact that the respondent sold first item of the property to one Sivakumar, pending application. In the circumstances, the learned Judge



ought to have directed the respondent to furnish the security. The learned Judge failed to see that the respondent has sold the I Schedule property even after receipt of notice issued under Section 6A in the application attachment before the Judgment. Having held sale in favour of the Shivakumar is pending application, the learned Judge failed to order attachment before Judgement.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials available on record it is seen that the suit is for recovery of money based on the promissory note and the respondent is disputing the execution of promissory note and the suit is pending for trial and the respondent filed written statement. Pending suit petitioner filed an application for attachment before Judgment, property belonging to the respondent. The respondent has produced the sale deed and encumbrance certificate to show that the property already sold to the third party. In the circumstances, the learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

7. In the result, the Civil revision petition is dismissed confirming the impugned order dated 03.11.2015 made in I.A.No.96 of 2014 in O.S.No.33 of 2014 on the file of learned Principal District Judge, Dindigul District. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

/True Copy/

Sub Assistant Registrar

To

The learned Principal District Judge,
Dindigul District.

+ 1 CC TO M/S.S.VIJAYASHANTHI, ADVOCATE IN SR NO. 11863/16

TRP

TE : 17/05/2016 : 2P/3C