

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1385 of 2017
and C.M.P.No.6419 of 2017

Durga Devi

.. Petitioner

Vs.

1.M/S.Reliance Chits Pvt. Ltd.
Rep. by its Managing Director
Mr.K.Nandakumar
No.5 Padmanabha nagar
Adyar, Chennai-20.

2.K.Nandakumar
3.Preetha Nandakumar

.. Respondents

Civil Revision Petition filed under Article 227 of the
Constitution of India, against the order dated 17.03.2017 made in
I.A.No.2738 of 2017 in O.S.No.782 of 2017 on the file of the
learned III Assistant Judge, City Civil Court, Chennai.

For Petitioner

: Mr.N.R.Chandran
Senior Counsel for Mr.S.Bhargavan

ORDER

The Civil Revision Petition has been filed against the order dated 17.03.2017 made in I.A.No.2738 of 2017 in O.S.No.782 of 2017 on the file of the learned III Assistant Judge, City Civil Court, Chennai.

2. The petitioner is a plaintiff and the respondents are the defendants in O.S.No.782 of 2017. The suit is one for recovery of money. According to the petitioner, a sum of Rs.3,80,920/- is due and payable by the respondents in respect of chit transaction and now the respondents are not available in the office premises and kept locked. Along with the suit, the petitioner filed I.A.No.2738 of 2017 for attachment before judgment. The learned trial Judge on 23.02.2017 ordered notice to the respondents returnable by 03.03.2017. Notice were served on the respondents on 03.03.2017, but there was no representation on behalf of them and hence, they were set exparte on that day. The learned trial Judge adjourned the application to 17.03.2017 for enquiry and subsequently to 17.04.2017. Therefore, the petitioner has filed the present civil revision petition challenging the order dated 17.03.2017.

3. According to the learned Senior Counsel appearing for the

petitioner, the learned trial Judge ought to have ordered attachment before judgment by considering the averments made in the affidavit that the respondents are taking steps to alienate and encumber only the immovable property to defeat the interest of the creditors and attitude of the respondents in not appearing before the Court. The learned Senior Counsel further submitted that under the above said circumstance, if attachment is not ordered, the petitioner will be put to irreparable loss and hardship.

4. Heard the learned Senior Counsel for the petitioner and perused the materials available on record. As the respondents were set exparte in I.A.No. 2738 of 2017 in O.S.No.782 of 2017, notice to the respondents is dispensed with.

5. It is seen from the records that the learned trial Judge on 23.02.2017 ordered notice to the respondents and notice was served on them. As there was no representation for the respondents on 03.03.2017, they were set exparte on that day. The learned trial Judge has not heard the application and adjourned the application from 03.03.2017 to 17.03.217, 17.04.2017 and subsequently to

24.04.2017.

6. According to the learned senior counsel for the petitioner, there is an urgency in getting an order of attachment, as the respondents are taking steps to alienate the property and defeat the interest of the petitioner. I feel that the contention of the learned senior counsel for the petitioner has considerable force.

7. In view of the above, the learned III Assistant Judge, City Civil Court, Chennai, is hereby directed to hear the application on merits without adjourning the matter any further and pass orders on merits and in accordance with law, within a period of one week from the date of receipt of a copy of this order. Till orders are passed, status-quo to be maintained as of today.

8. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

18.04.2017

kj

Index:Yes/No

To

III Assistant Judge
City Civil Court, Chennai.

V.M.VELUMANI,J.

kj

C.R.P.(PD)No.1385 of 2017
and C.M.P.No.6419 of 2017

18.04.2017

<http://www.judis.nic.in>