

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 527 of 2016

S.Jaganathan

... Petitioner

Vs

S.Vallinayagam

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.365 of 2015 in O.S.No.295 of 2015 dated 05.10.2015 by the learned I Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr. A. Muthukumar

For Respondent : Mr. A. Udaya Suriyan
for Mr. S. Saravanan

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ORDER

This revision arises against the order passed in I.A.No.365 of 2015 in O.S.No.295 of 2015 dated 05.10.2015 by the learned I Additional District and Sessions Judge, Coimbatore.

2. The learned counsel for the petitioner submitted that the petitioner filed a suit in O.S. No. 295 of 2015 for recovery of the outstanding amount of Rs.77,97,947/-. The petitioner also filed an application in I.A. No.365 of 2015 seeking direction to the respondent/ defendant to furnish security, failing which to pass an order of attachment of the schedule mentioned property. The court below dismissed the said application, holding that the said averment in the affidavit are bald and no material has been placed to prove the case of the petitioner. Challenging the said order passed by the court below, the petitioner has filed the present revision before this Court.

3. According to the petitioner, he has filed the suit for recovery of the aforesaid amount. The respondent/ defendant has not furnished any other security for the said amount and it would not be possible to recover the said amount, when a decree is granted in favour of the petitioner.

4. Mr. A. Udaya Suriyan, the learned counsel for the respondent would submit that when the respondent/ defendant borrowed loan from the revision petitioner, she has entrusted the original title deed of the schedule mentioned property to the revision petitioner and the same is still in his possession. It was further submitted that the present application has been filed only on apprehension and no material has been placed before the court. Therefore, no prejudice would be caused to the revision petitioner, even if the relief as prayed in the Interlocutory Application, is not granted.

5. It is clear from the above submissions that the revision petitioner has filed the suit, on the basis of the promissory note, for the principal amount with the accrued interest, of a total sum of Rs.77,97,947/- and for the subsequent interest. According to the revision petitioner, the respondent is taking steps to alienate the schedule mentioned property, to defeat the right of the petitioner. It is the contention of the respondent that the original documents of the schedule property, is in possession of the petitioner, so the said fact is only imaginary and no material has been placed before the court below.

Therefore, the contention of the petitioner is incorrect and the same is denied. According to the respondent/ defendant, the value of the schedule mentioned property is 3.50 crores and after calculation, if any amount is due and payable, the said amount can be compensated only for a portion of the property. In view of the above fact, no prejudice would be caused to the revision petitioner, by the order of the lower court.

6. In view of the above submissions of the learned counsel for both the parties, this Court is not inclined to entertain this civil revision petition. However, in the interest of justice and on the basis of the statement made by the learned counsel for the respondent/ defendant that the Interlocutory Application has been filed at the apprehension of the revision petitioner, and since the suit is of the year 2015, the court below is directed to dispose of the suit, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Both the parties undertake to co-operate for the disposal of the suit and the same is recorded.

7. Accordingly, the Civil Revision Petition is dismissed, with the above direction. No order as to costs.

09.10.2017

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To

The I Additional District and
Sessions Judge,
Coimbatore.



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D. KRISHNAKUMAR J.,

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