



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.06.2017

CORAM:

WEB COPY

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CRP(MD)NO.1142 of 2017 (PD)

G.Ramesh Kumar

... Petitioner

-Vs-

1.A.Gurusamy

2.G.Guruvammal

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 12.01.2017 passed in I.A.No.428 of 2016 in O.S.No.119 of 2016 on the file of the Sub-Court, Sankarankovil.

For Petitioner : Mr.Lakshmi Gopinathan

ORDER

This revision petition is directed against the dismissal of attachment before judgment application filed under Order XXXVIII Rule 5 under Section 151 CPC by the plaintiff before the Trial Court.

2.The learned counsel appearing for the revision petitioner submitted that the suit in O.S.No.119 of 2016 was filed for recovery of money based on a Pro-Note executed by the defendant. The petitioner/plaintiff apprehending the defendants will alienate the suit property pending suit and will defeat the interest of the plaintiff, sought for attachment before judgment expressing his apprehension that the defendants are attempting to sell the property in question and go beyond the jurisdiction of the Civil Court.

3.However, the trial Court after considering the application and the counter filed by the defendants has dismissed the application, on the ground that the revision petitioner has not satisfactorily proved that the defendants are likely to alienate the property and go beyond the territorial jurisdiction of the Civil Court.

4.The learned counsel for the revision petitioner submitted that the trial Court has over looked the specific averments made in the application and erroneously dismissed the attachment before



judgment application for want of material evidence.

5. Heard the learned counsel for revision petitioner. Records perused.

6. The Court has dismissed the application on arriving at the conclusion that the petitioner/plaintiff does not satisfy the required ingredient specified under Order XXXVIII Rule 5 CPC. The allegations levelled against the respondents/defendants are very bald and vague. This Court finds that the revision petitioner has averred in his application that the defendants are likely to sell the property to some third party and go beyond the jurisdiction of the Civil Court. The said allegation is not supported by any specific detail. Therefore, this Court finds no error in the impugned order passed by the trial Court in I.A.No.428 of 2016. However, it is made clear that the dismissal of the revision petition will not stand in the way of the petitioner/plaintiff to file a fresh petition for attachment before judgment, with specific particulars and evidence to substantiate his claim.

6. Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Sankarankovil.

MM/MRN
TE/KKR/SAR-IV : 03/07/2017 : 2P/2C

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