



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P. (MD) .No.1021 of 2016 (PD)

and

CMP (MD) .Nos.4755, 997 of 2017 & 5102 of 2016

Kalimuthu ... Petitioner/Petitioner/Plaintiff

Vs.

R.Chithanathan ... Respondent/Respondent/Defendant

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to allow this C.R.P. by setting aside the Order made in I.A.No:57/16 in O.S.No:11 of 2016 dated 15.03.2016 on the file of the Principal District Court, Virudhunagar District at Srivilliputtur.

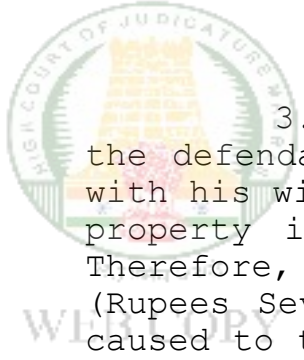
For Petitioner : Mr.M.Thirunavukkarasu

For Respondent : Mr.Dhana Aravindha Balaji

ORDER

This revision petition is directed against the order passed by the Trial Court in I.A.No.57/16 in O.S.No.11/16 dated 15.03.2016, accepting the surety furnished by the defendant in the ABJ petition.

2. According to the revision petitioner, the ABJ petition was sought in respect of two items of property, wherein the defendant has come forward to furnish the title deed of second item property, which according to the revision petitioner is worth only Rs.7,00,000/- (Rupees Seven Lakhs only), in which the defendant has only half share and rest of the half share is owned by the wife of the defendant. Therefore, the property which has now been furnished as security does not match the suit amount which exceeds Rs.9,00,000/- (Rupees Nine Lakhs only). Therefore, insisting for attaching the first item property which according to the revision petitioner, is worth Rs.10,00,000/- (Rupees Ten Lakhs only), the present revision petition is filed.



3. The learned counsel for the respondent submitted that the defendant is the joint owner of the second item property along with his wife. According to the valuer, the worth of the second item property is more than Rs.15,00,000/- (Rupees Fifteen Lakhs only). Therefore, half share of the defendant is more than Rs.7,50,000/- (Rupees Seven and a half lakhs only). Hence, no prejudice will be caused to the revision petitioner, even if, he succeeds in the suit for recovery of money, based on the immovable property which is now been given as security.

4. The learned counsel for the revision petitioner submitted that without giving an opportunity to assail the valuation certificate given by the Engineer, the Trial Court has accepted the second item property, instead of the first item property, which is more worthy than the second item property and the second item property will not satisfy the decree, if decree is passed in his favour.

5. The learned counsel for the respondent now submits that if the revision petitioner is not satisfied with the undertaking given by the defendant that he will not alienate his share in the second item property, he will get an undertaking from the co-sharer, who is none other than the wife of the defendant, that she will also not alienate the property till the disposal of the suit.

6. This Court sees the fairness of the respondent in submitting the above proposal. Even according to the revision petitioner, the value of the second item property is worth Rs.7,00,000/- (Rupees Seven Lakhs only) and the share of the defendant is Rs.3,50,000/- (Rupees Three and a half lakhs only). The property being an immovable property with concrete building over it. Undertaking, not to alienate the entire property by the joint owners, if given, will substantially satisfy the suit claim amount. Hence, recording the undertaking given by the learned counsel for the respondent / defendant, this civil revision petition is closed. One month time is granted for the respondent to get an undertaking from the co-sharer and submit the same to the Trial Court.

7. With these observations, this Civil Revision Petition is closed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

The Principal District Judge,
Srivilliputtur, Virudhunagar District.

+ 1 CC TO Mr.M.THIRUNAVUKARASU, ADVOCATE IN SR No. 59798
+ 1 CC TO M/S.DHANA LAW ASSOCIATES, IN SR No. 59934

SM/GK

TE/SV-MMS/SAR-III : 29/06/2017 : 3P/4C

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