

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.4363 of 2017

ORDER:

Pending the suit for recovery of money, the petitioner/plaintiff filed an application for injunction restraining the tenant, namely Indian Oil Corporation, from paying the monthly rents to the defendant. The Court of first instance dismissed the application on 23-09-2016 and the same was confirmed by the First Appellate Court by an order dated 10-07-2017 in C.M.A.No.24 of 2016. Hence, the petitioner/plaintiff is before me.

2. Heard Mr. K. Raji Reddy, learned counsel for the petitioner.

3. The suit itself was for recovery of money. Suit was instituted in the year 2015. It was a simple suit for recovery of money without any prayer for enforcement of any charge or mortgage against any property. Therefore, at the most in a suit for recovery of money, a plaintiff can seek an attachment under Order 38 Rule 5 of the Code of Civil Procedure. But, the petitioner sought a garnishee order by filing an application under Order 39 Rule-1 CPC. The trial Court rightly dismissed the said application and the Appellate Court confirmed the same. For the past two years, the petitioner/plaintiff does not have the benefit of any interim order. Other than securing an eventual decree that may be passed in the suit, the petitioner cannot seek garnishee order in this fashion.

Hence, the Civil Revision Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 01-09-2017
Ksn