

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

C.M.A.No.601 of 2016
and C.M.P.No.4958 of 2016

P.N.R.Karthikeyan

... Appellant/Plaintiff

Vs.

R.Sathish

... Respondent/Defendant

Civil Miscellaneous Appeal filed under Order 43 Rule 1 (t) of the Civil Procedure Code against the order and decretal order dated 28.10.2015 made in I.A.No.446 of 2015 in O.S.No.194 of 2015 on the file of the II Additional District Court, Erode.

For Appellant : Mr.N.Manokaran
For Respondent : Mr.V.P.Sengottuvel

J U D G M E N T

Challenging the order passed in I.A.No.446 of 2015 in O.S.No.194 of 2015 on the file of the II Additional District Court, Erode, the plaintiff has filed the above appeal.

2.The plaintiff filed the suit in O.S.No.194 of 2015 for recovery of money on pro-note. In the said suit, the plaintiff took out an application in I.A.No.446 of 2015 under Order 36 Rule 5 of the Civil Procedure Code to attach the property before judgment. The application has been filed as against the respondent/1st defendant alone. The 1st defendant filed his counter stating that the property sought to be attached belongs to the 2nd defendants and he has no right or title over the same.

3.The trial Court considering the case of both parties, came to the conclusion that the property mentioned in the application in I.A.No.446 of 2015 cannot be attached for the reason that the 1st respondent is not the owner of the property and it is only the 2nd respondent who is the owner of the property, who has not been made as a party in the application. In these circumstances, the order passed by the trial Court is just and proper.

4.I do not find any error or irregularity in the order passed by the trial Court. The appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. The trial Court is directed to dispose of the suit in O.S.No.194 of 2015 as expeditiously as possible. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

va
To

1. The II Additional District Court,
Erode.

Copy to
The Record Keeper
VR Section, High Court, Madras.

+1 CC to Mr.N. Manokaran, Advocate sr 10428.

+1 CC to Mr.V.P. Sengottuvel, Advocate sr 10248.

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and C.M.P.No.4958 of 2016

SJ(CO)
SP(23/02/2018)

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