

**A.No.9967 of 2018
in A.No.3713 of 2006
in C.S.No.152 of 2006**

R.SURESH KUMAR, J

This application has been filed by the defendant in the suit to raise the order of attachment before Judgment made on 16.11.2006 in A.No.3713 of 2006 in C.S.No.152 of 2006 with respect to the schedule mentioned property.

2. Heard Mr.Hari Radhakrishnan, learned counsel appearing for the applicant / defendant, who has brought to the notice of this Court that, subsequently in Company Petition No.255 of 2003 before the High Court of Delhi, an order was passed between the parties by order, dated 05.04.2011, where the entire principal amount payable to the plaintiff by the defendant in this suit, since has been settled, it has been recorded in that order by the High Court of Delhi, which reads thus :

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"IV. In view of the above settlement, so far as the suit filed by the Applicant, Mesuka Engineering Company (P) Ltd., against the Respondent Company being C.S.(OS) 152/2006 before the Madras High Court is concerned, Mesuka Engineering Company (P) Ltd.'s claim of Rs.39.74 lakhs stands satisfied. It shall be open to Mesuka Engineering

Company (P) Ltd., to pursue only its claim of interest and under other heads in respect of the said sum and it shall be open for the Respondent Company to defend the same.

V. It is only upon receiving the aforesaid payment of the amount of Rs.39.74 lakhs referred above, Mesuka Engineering Company (P) Ltd., undertakes that it shall immediately take steps to have the Order dated 16.11.2006 of attachment of the Respondent Company's land recalled / vacated by filing an appropriate application in the aforesaid suit, C.S.(OS) No.152/2006. Mesuka Engineering Company (P) Ltd. further undertakes that it shall make no further application for attachment of any property of the Respondent Company by way of attachment before Judgment."

3. In spite of the said order having been passed by the Delhi High Court as early as in the year 201 and having undertook before the Delhi High Court, the plaintiff has not come forward to file suitable application to raise the order of attachment. Therefore it become necessitated for the applicant / defendant to make out this application seeking for raising the order of attachment before Judgment as prayed for.

4. I have heard, Mrs.Saraswathi, learned counsel appearing for the respondent / plaintiff who would fairly submit that, in view of the said finding given by the Delhi High Court referred to above in Company Petition, since the entire principal amount has been received by the plaintiff, the said attachment before Judgment order made by this Court in the year 2006 can be raised. Therefore the respondent / plaintiff does not have any objection in allowing this application.

5. Recording the said submissions made by the learned counsel appearing for the respondent / plaintiff and by taking note of the finding given by the Delhi High Court in the order referred to above, this application is allowed and the order of attachment made by this Court as early as on 16.11.2006 in A.No.3713 of 2006 in C.S.No.152 of 2006 in respect of the suit schedule mentioned property is hereby raised.

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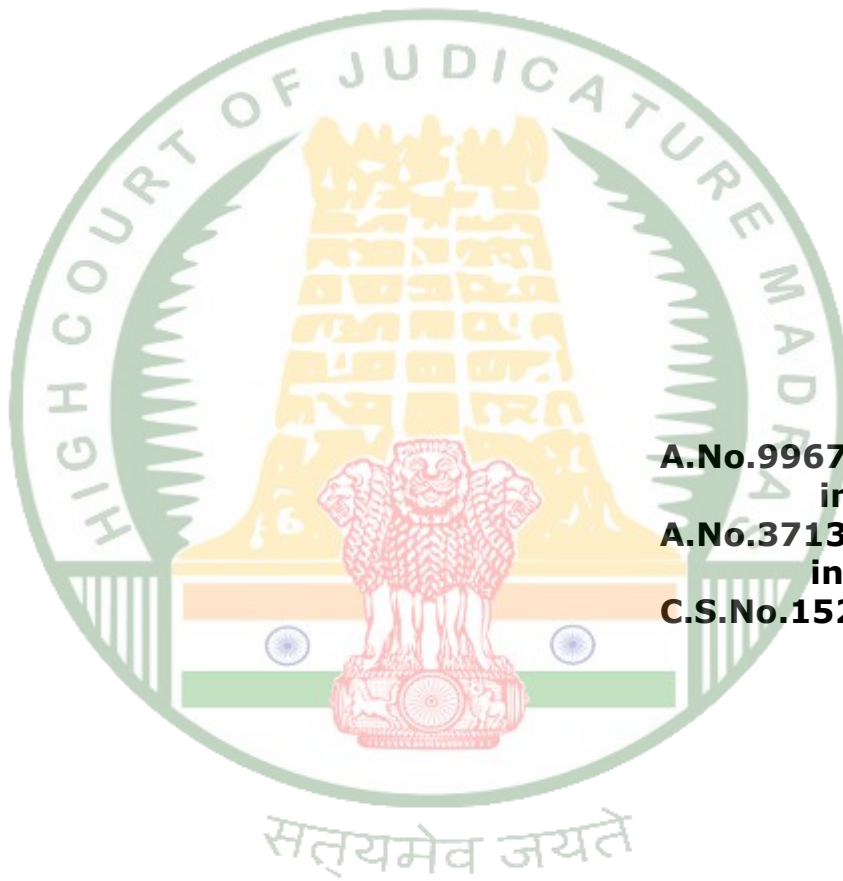
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