



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P(MD).No.658 of 2018

Palaniammal

...Revision Petitioner

Vs.

1.R. Gandhi

2.G. Rajasekar

... Respondents

Prayer: This Petition is filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.539 of 2016 in O.S.No.707 of 2016 dated 17.03.2017 on the file of the II Additional Subordinate Court, Madurai.

For Petitioner

... Mr. M. Ramu

ORDER

This Civil Revision Petition has been filed by the petitioner, who is the plaintiff in O.S.No.707 of 2016, challenging the order of dismissal passed in I.A.No.539 of 2016 in O.S.No.707 of 2016, on the file of the II Additional Subordinate Court, Madurai, dated 17.03.2017.

2. The revision petitioner / plaintiff has filed a suit in O.S.No.707 of 2016 for recovery of amount from the respondents. Pending disposal of the above said suit, she has filed I.A.No.539 of 2016 for attachment before Judgment to furnish the security for a sum of Rs.6,00,000/- within a time limit to attach the petition mentioned property before the Judgment and also pass an order of conditional ad interim attachment to the same effect till the disposal of the petition.

3. The petitioner, who is the plaintiff in suit, has averred in para 6 of the affidavit reads as follows:-

"6. The respondents / defendants are the owner of the under mentioned property and they are trying to alienate or encumber the property to some other 3rd parties to defeat my bonafide claim. The only immovable property is available with the respondents / defendants. If the respondents / defendants are allowed to alienate the petition mentioned property, my claim will be defeated. Hence, I have filed this petition to attach the property before Judgment."



4. For the above said I.A.No.539 of 2016, the respondents, who are the defendants in the suit has filed counter and in para No.3 of the counter affidavit it is stated as follows:-

"3. The respondents / defendants are not joint owners of the suit property as alleged. The petition mentioned property belongs absolutely to 2nd respondent alone. He is not intending to sell the property as averred in the affidavit without prejudice to the rights of this 2nd defendant and without prejudice to filing detailed Additional Counter and Written Statement in the petition these defendants are not liable to give any security as directed."

5. As per the above counter affidavit filed by the respondents / defendants it is alleged that they are not intending to sell the property as averred in the affidavit. Recording the said undertaking of the defendants, mentioned in para 3 of the counter affidavit, the learned Judge has dismissed the Interlocutory Application filed by the revision petitioner herein. In such circumstances, there is no irregularity or illegality in the order passed by the Court below.

6. In the result, the Civil Revision Petition is dismissed by confirming the order passed in I.A.No.539 of 2016 in O.S.No.707 of 2016, dated 17.03.2017 on the file of the II Additional Subordinate Court, Madurai. No costs.

7. Further, the trial Court is directed to dispose of the suit in O.S.No.707 of 2016, within a period of three months from the date of receipt of a copy of this order, without giving any further adjournment to the parties concerned, on day to day basis and the parties are also directed to give their fullest co-operation for early disposal of the above said Suit. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The II Additional Subordinate Judge, Madurai.

+1CC to Mr.M.Ramu, Advocate, SR.No. 59324

C.R.P(MD).No.658 of 2018
02.04.2018