



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Nineteenth day of April Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CMP(MD) No.3580 of 2018
IN
AS(MD) No.12 of 2016

ANBU ILLAM,
REP. BY ITS MANAGING DIRECTOR
FR.B.RUSSEL RAJ.

... APPELLANT/PETITIONER

Vs

JOHN BENNET,
PROPRIETOR M.P.CONSTRUCTION,
M.S.ROAD, VETTORNIMADAM POST,
VADASERY VILLAGE,
AGASTEESWARAM TALUK,
KANYAKUMARI DISTRICT.

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to release the attachment of properties attached vide Order dated 14.12.2009 in I.A.No.633/2009 in O.S.No.194/2009 by retaining the above said property mentioned in the affidavit for satisfaction of decree pending the above first appeal and thus render justice.

Prayer in AS(MD).12/2016 :

To prefer the above Memorandum of grounds of first appeal against the judgment and decree dated 22/12/2015 passed by the District Court, Kanniyakumari Division at Nagercoil in OS NO. 194 / 2009 for following among other.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.VALLINAYAGAM, Senior Counsel for MR.K.SAMIDURAI, Advocate for the petitioner and of MR.V.K.VIJAYARAGHAVAN, Advocate on behalf of the Respondent, the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>

This Miscellaneous Petition is filed seeking for release of



the attachment of the properties filed in I.A.No.633 of 2009 in O.S.No.194 of 2009 by order dated 14.09.2009, passed by the Court below.

2.The respondent herein filed a suit for recovery of a sum of Rs.21,06,814/- with future interest. During the pendency of the suit, the respondent/plaintiff filed an interim application in I.A.No.633 of 2009 seeking attachment of properties referred to in the petition. The trial Court passed an order of attachment, on 14.12.2009. Subsequently, the suit was decreed as prayed for. Challenging the said Judgment and decree, the present appeal is filed by the defendant.

3.Now, the present application is filed to release all other items referred to in I.A.No.633 of 2009 other than the properties referred to in the present application, by contending that these properties, agreed to be retained in attachment are valued for more than Rs.1 Crore and 15 Laksh, would be sufficient to meet the decretal amount, even if the respondent in the appeal succeeds later. It is further stated that the appellant is running a school for Deaf and Dumb and also hostel for them and therefore, in view of the attachment of the entire properties, the appellant is finding it difficult in running the school and hostel without money. According to the appellant, the properties bearing Survey Nos.A1-30/8 (8 cents), 1-3-1B (23 cents), A1-30-1-B (27 cents) and Survey No.A1-30-3 (15 cents) situated in Kaliankadu, Vadasery Village, Agasteeswaram Taluk, Kanyakumari District, which are already forming part of the attachment order passed by the trial Court are sufficient to meet the requirement, as the value of those properties are more than Rs.1 Crore and 15 Lakhs.

4.A counter affidavit is filed by the respondent in this application. Though general objection is made in the counter affidavit, there is no specific denial with regard to the claim made by the appellant about the value of the property sought to be retained in the attachment.

5.Considering the fact that the suit is decreed for Rs.21,06,814/- with interest and further considering the fact that the value of the properties, which are now sought to be retained in the attachment, is said to be more than Rs.1 Crore and 15 Laksh, which claim is not specifically denied by the respondent, the order of attachment made by the trial Court in I.A.No.633 of 2009 is modified and the same is directed to be in operation only in respect of the properties referred to in Survey Nos.A1-30/8 (8 cents), 1-3-1B (23 cents), A1-30-1-B (27 cents) and Survey No.A1-30-3 (15 cents) situated in Kaliankadu, Vadasery Village, Agasteeswaram Taluk, Kanyakumari District. In respect of other properties, which are subject-matter of such attachment order, they are ordered to be released.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Since this Court has modified the order of attachment,



the same shall be communicated to the concerned Registrar for recording purpose. The Registry is directed to call the entire records from the concerned Court and post the matter after vacation.

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sd/-
19/04/2018

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE DISTRICT JUDGE,
KANYAKUMARI DIVISION AT NAGERCOIL
- 2 THE DISTRICT REGISTRAR, REGISTRATION OFFICE, KANYAKUMARI DISTRICT.
- 3 THE SUB REGISTRAR, SUB REGISTRAR OFFICE, AGASTEESWARAM TALUK,
KANYAKUMARI DISTRICT.

COPY TO : THE SECTION OFFICER, VR SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

- +1. C.C. to M/S.K.SAMIDURAI, Advocate SR.No.6592
+1. C.C. to M/S.V.K.VIJAYARAGAVAN, Advocate SR.No.6614

ORDER
IN
CMP(MD) No.3580 of 2018
IN
AS(MD) No.12 of 2016
Date :19/04/2018

PK/CSL/VK/24.04.2018 : 3P/7C