



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.04.2018
CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No. 2181 of 2017
and
C.M.P. (MD) No. 10702 of 2017

M.Gopal

... Petitioner

Vs.

D.Rajesh

... Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decreetal order made in I.A.No.247 of 2017 in O.S.No.46 of 2017, dated 29.04.2017 on the file of the V Additional District Court, Madurai.

For Petitioner : Mr.R.Rajaraman

For Respondent : Mrs.P.Sona Alagesh

O R D E R

The Civil Revision Petition is filed against the order dated 29.04.2017 passed by the V Additional District Court, Madurai in I.A.No.247 of 2017 in O.S.No.46 of 2017.

2. The petitioner is the plaintiff and the respondent is the defendant in O.S.No.46 of 2017. The petitioner has filed the above said suit before the learned V Additional District Judge, Madurai for realisation of money. During the pendency of the suit, the petitioner/plaintiff has filed an application in I.A.No.247 of 2017 before the V Additional District Court, Madurai under Order 38 Rule 5 of C.P.C., seeking direction to the defendant to furnish security within a time fixed by the Court, failing which the property mentioned in I.A.No.247 of 2017 will be attached. Considering the case of the petitioner, the learned Judge, by order dated 29.04.2017, has dismissed the application stating that the petitioner has not made out any prima facie case for the suit itself. Challenging the said order, the present Civil Revision Petition has been filed.

3. Notice has been ordered to the respondent and he has appeared through his counsel and he has also filed a counter and in paragraph No.12, it is reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/> "12. It is humbly submitted that the respondent has no intention to sell the property, indeed he obtained additional loans for development of the property in his



name and therefore he will not dispose the property as alleged by the petitioner."

4. The respondent in his counter affidavit has stated that he has no intention to sell the property which is mentioned in I.A.No.247 of 2017. Once the respondent in his counter had clearly stated that he has no intention to sell the property, then the order for attachment is not all arised.

5. Recording the said submission, the Civil Revision Petition is closed, confirming the order passed by the learned V Additional District Judge, Madurai in I.A.No.247 of 2017 and the learned V Additional District Judge, Madurai is directed to dispose of the suit in O.S.No.46 of 2017 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The V Additional District Court,
Madurai.

2.The Record Keeper,
V.R.Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1CC TO Mrs.P.Sona Alagesh , ADVOCATE IN SR.No.61742,
+1CC TO Mr.R.Rajaraman, ADVOCATE IN SR.No.61731.

AKV

DS/RSK-SKN/SAR-3 :22.05.2018: 2P/6C

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