



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)No. 1772 of 2013
and M.P. (MD)No.1 of 2013

WEB COPY

G.Radhakrishnan

... Appellant/Respondent

Vs.

M/s.Lakshmi Farm Seeds,
a partnership firm,
Rep. by its Managing Partner
A.Subramani

... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 104 r/w Order LXIII Rule 1(q) of the Code of Civil Procedure, 1908, against order dated 19.06.2013 and passed in I.A.No.60 of 2013 in O.S.No.38 of 2013 on the file of the III Additional District Judge, Tiruchirappalli.

For Appellant : Mr.R.A.Mohanram

For Respondent : Mr.R.Sundar

J U D G M E N T

This Civil Miscellaneous Appeal is filed challenging the order of attachment dated 19.06.2013. The appellant is defendant in O.S.No.38 of 2013. The respondent filed the above suit for recovery of a sum of Rs.13,53,764/- together with interest. Along with the suit, the respondent has also filed I.A.No.60 of 2013 under Order 38 Rule 5 C.P.C and Section 151 C.P.C praying for the order to the appellant to furnish security for a sum of Rs.13,53,764/- and in default, order of attachment before the judgment of the petition mentioned immovable property of the appellant.

2. The trial Judge, by the order dated 25.04.2013, directed the appellant to furnish security for the petition mentioned amount of Rs.13,53,764/- on or before 10.06.2013 and stated that failing to comply with the condition further order will be passed according to law and posted the matter to 11.06.2013. The appellant did not furnish security on 11.06.2013 and even after further hearing on 19.06.2013. By order dated 19.06.2013, the trial Judge passed the order of attachment, as the appellant has not complied the conditional order dated 25.04.2013. Challenging that order, the present Civil Miscellaneous Appeal is filed.



3. When the appeal is taken up for hearing, the learned counsel for the appellant submitted that the appellant will not alienate the property till the disposal of the suit and he filed an affidavit of undertaking to that effect. The said undertaking affidavit is taken on file.

4. Considering above contention and the fact that the suit is of the year 2013, the Civil Miscellaneous Appeal is disposed of without deciding the issue on merits, directing the learned Trial Judge to decide the suit on merits and in accordance with law as expeditiously as possible in any event not later than 3 months from the date of receipt of a copy of this judgment. No costs. Consequently, connected M.P.(MD) No. 1 of 2013 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The IIIrd Additional District Judge,
Tiruchirappalli.
2. The Record Keeper,
V.R. Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Sundar, Advocate SR.No.77316

Cm

MK/SKN/SAR 3/31.08.2018/2P/5C

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