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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2891 of 2019

&

CMP.No.15279 of 2019

B.Selvambigai .. Appellant/3rd Defendant

-vs-

1. M/s Sri Vari Fabrics
A partnership firm rep by its
Authorised person/Partner
Sri V.Chakaravarthi

2. M/s Merit Fashion
A partnership firm rep by its
Partner S.Kathiresan
1/147 Karuppa Goundampalayam
Veerapandi
Tiruppur 641 605

3. S.Kathiresan ..Respondents/Plaintiffs
Defendants 1 &2

Memorandum of Grounds of Civil Miscellaneous Appeal under Order XLIII, Rule 1 of the Civil Procedure Code, against the fair and decretal order dated 22.03.2019 made in I.A.No.100 of 2019 in O.S.No.83 of 2019 on the file of the learned Principal District Judge, Tiruppur.

For Appellant :: Mr.P.Subbaraj

JUDGMENT

This civil miscellaneous appeal has been directed against the impugned docket order dated 22.3.2019 passed in I.A.No.100 of 2019 in O.S.No.83 of 2019 ordering attachment of the property for non-furnishing of security by the appellant/third defendant, in the suit filed by the first respondent/plaintiff for recovery of a sum of Rs.14,14,497/- towards the principal and interest and future interest at the rate of 18% per annum on Rs.13,15,200/- from the date of suit till realisation.



2. The appellant is the third defendant in the suit. When the suit was filed by the first respondent/plaintiff seeking a direction to the defendants 1 to 3 to pay the plaintiff jointly and severally a sum of Rs.14,14,497/- towards the principal and interest and future interest at the rate of 18% per annum on Rs.13,15,200/- from the date of suit till realisation, the first respondent/plaintiff also filed I.A.No.100 of 2019 stating that when the defendants 2 & 3 approached the plaintiff for a hand loan of Rs.3,00,000/- and that the first respondent also sent the amount to the defendants through their current bank account on 30.8.2018 through RTGS transfer, which was also received by the defendants through their HDFC bank account, Tiruppur with an assurance to repay the same with 18% interest per annum, as on 15.9.2018, a sum of Rs.13,15,200/- was due and payable by the defendants to the plaintiff firm. It is the further case of the first respondent/plaintiff that the second defendant with the knowledge and consent of the appellant/third defendant had issued a cheque dated 22.10.2018 for a sum of Rs.3,00,000/- bearing No.000843 drawn on HDFC Bank Ltd., Dharapuram Road, Tiruppur in favour of the first respondent. But the said cheque was returned on the ground of 'insufficient funds' in the first defendant's bank account. Therefore, the first respondent initiated criminal proceedings under Section 200 Cr.P.C., read with Sections 138 and 142 of the Negotiable Instruments Act against the defendants for dishonour of the cheque on the file of the learned Judicial Magistrate No.I, Tiruppur and the same is also pending. In the meanwhile, the appellant/third defendant has been attempting to alienate the property mentioned in the petition to third parties. Therefore, the first respondent/plaintiff sought for an interim order directing the defendants 1 to 3 to furnish security for the suit claim. The Court below, taking note of the vital document that the cheque issued by the defendants 2 & 3 got dishonoured and the appellant/third defendant has been making attempts to alienate the property, has rightly passed an interim order of attachment, as the defendants 1 to 3 failed to furnish security for the suit claim. Therefore, this Court finds no infirmity or error whatsoever in the order passed by the Court below. Accordingly, finding no merits whatsoever, the civil miscellaneous appeal stands dismissed. Consequently, C.M.P.No.15279 of 2019 is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge
Tiruppur

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