

**Application No.7284 of 2019**  
**in**  
**C.S.No.574 of 2019**

**SENTHILKUMAR RAMAMOORTHY,J.**

In the suit for recovery of a sum of Rs.1,75,07,538.24 with interest thereon, the plaintiff has taken out this application to direct the Respondents/Defendants to furnish security for the suit claim and in the event of default, for an order of attachment before judgment of the movables of the Respondents/Defendants lying at No.S-5, Block 34, 1<sup>st</sup> Floor, Opp. LIC Building, Sanjay Palace, Agra, Uttar Pradesh – 282 006 and at No.13/285, Nunhai P.O. Yamuna Bridge, Agra, Uttar Pradesh, as per details set out in the judges summons.

2. I heard the learned counsel for the Applicant/Plaintiff.

3. The learned counsel for the Applicant/Plaintiff submitted that the dispute arose out of a contract that was entered into originally with the first Respondent/first Defendant. He further submitted that the Defendants 1 to 5 are closely interlinked inasmuch as the same person is the Partner or Director of the Respondents 1 to 3/ Defendants 1 to 3 and that he has also been arrayed individually as

the 4<sup>th</sup> Respondent/4<sup>th</sup> Defendant. Consequently, he submits that a joint and several decree was prayed for in the suit as against all the five Respondents.

4. He further submits that notice was issued in the Application and that the said notice was served on the Respondents but the Respondents did not enter appearance in person or through counsel. In these facts and circumstances, he submitted that the Order dated 25.10.2019 was issued, whereby the Respondents were directed to furnish security for the suit claim of Rs.1,75,07,538.24 on or before 15.11.2019, failing which, there shall be an order of attachment before judgment. The said order dated 25.10.2019 was also despatched to all the five Respondents/Defendants. The said notice communicating the order dated 25.10.2019 was returned unclaimed by the Respondents 1 to 3 and the same was delivered on the Respondents 4 and 5 on 07.11.2019. In support of this submission, the learned counsel relied upon the affidavit of service dated 15.11.2019 enclosing the returned covers and the track consignment status report of the postal department. Therefore, the learned counsel requested that an order of attachment before judgment as prayed for in the application should be granted.

5. Upon considering the submissions of the learned counsel for the Applicant and on examining the plaint and the affidavit filed in support of this application, it is clear that the Respondents 1 to 3 refused to claim the communication enclosing the order dated 25.10.2019 and the fourth and fifth Respondents were served. The names of the Respondents are also printed in the cause list. In spite of the above, the Respondents have not entered appearance either in person or through counsel. Therefore, as apprehended by the Applicant, there are grounds for the reasonable apprehension that the Respondents could dispose of the assets so as to deprive the Applicant of the fruits of the decree that may be obtained unless an order of attachment before judgment is granted.

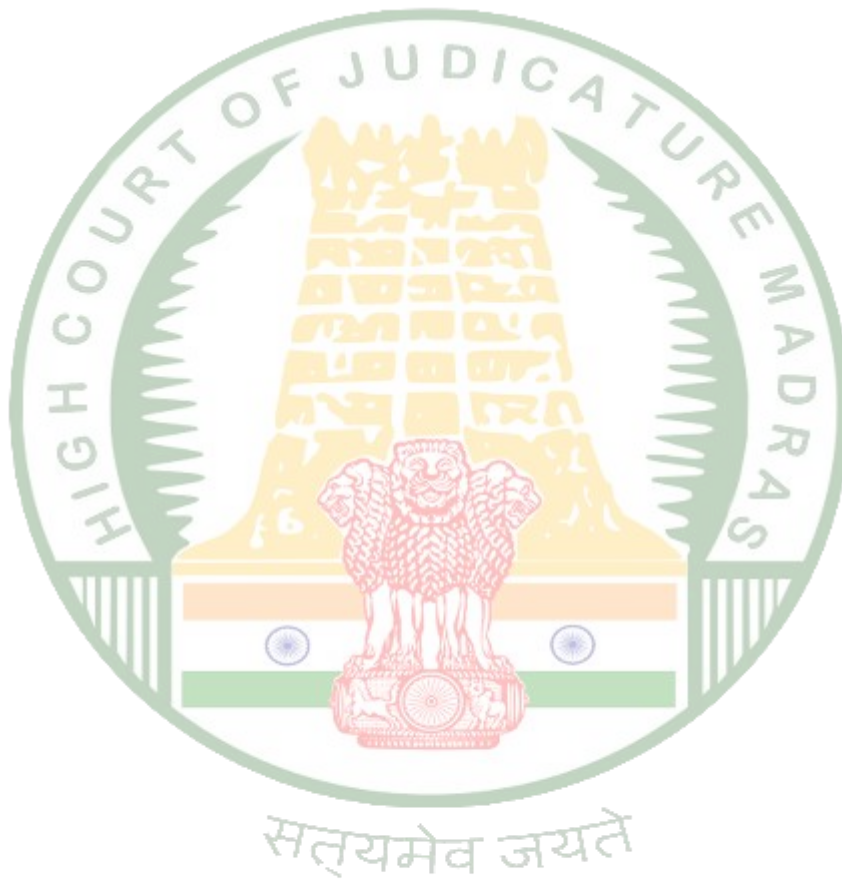
6. For the foregoing reasons, there shall be an order of attachment before judgment of the movables of the Respondents/ Defendants lying at No.S-5, Block 34, 1<sup>st</sup> Floor, Opp. LIC Building, Sanjay Palace, Agra, Uttar Pradesh – 282 006 and at No.13/285, Nunhai P.O. Yamuna Bridge, Agra, Uttar Pradesh, as per details set out in the judges summons. A copy of this order shall be transmitted to the Hon'ble High Court of Allahabad for taking necessary steps to implement this order. A copy of this order shall also be provided to the learned counsel for the Applicant for the purposes of ensuring that

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it is duly transmitted to the Hon'ble High Court, Allahabad for taking necessary action in this regard.

03.12.2019

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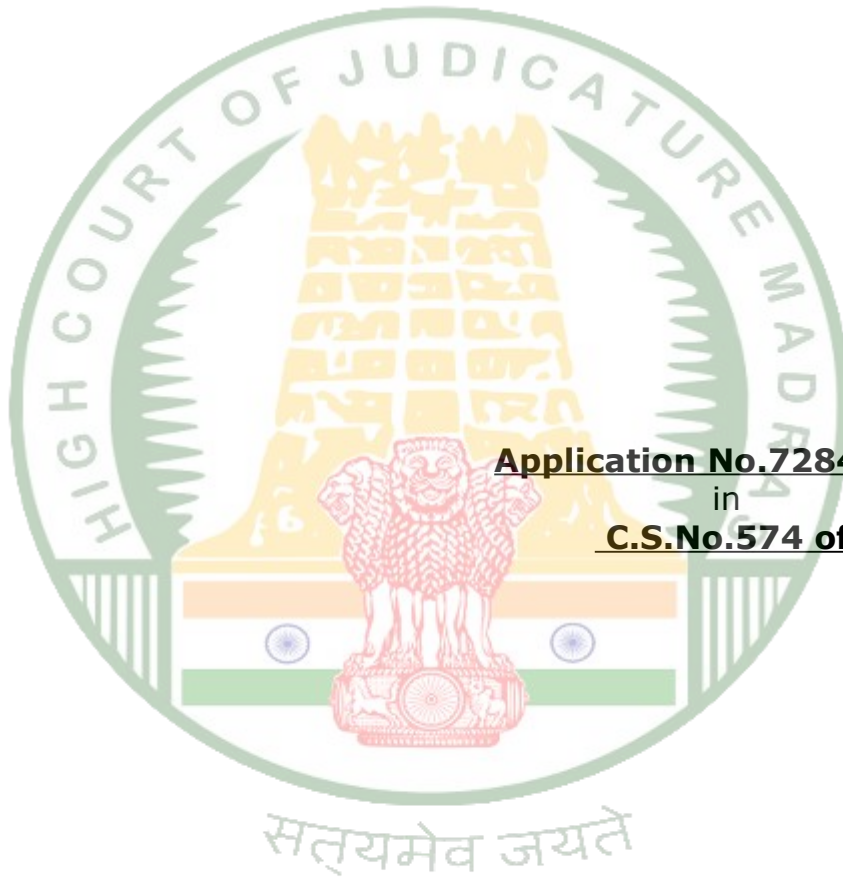


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