



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

WEB COPY

C.R.P. (PD) (MD) No.426 of 2019

and

C.M.P (MD) No.2136 of 2019

M.Sahayaraj

... Revision petitioner/
Respondent/Defendant

vs.

K.Shobha

... Respondent/Petitioner/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order, dated 22.01.2019 made in I.A. No.679 of 2015 in O.S. No.959 of 2015, on the file of the I Additional Subordinate Judge of Trichirappali District by allowing this Revision Petition.

For petitioner : Mr.T.Kamaraj

O R D E R

This Civil Revision Petition has been filed to set aside the order, dated 22.01.2019 made in I.A. No.679 of 2015 in O.S. No.959 of 2015, on the file of the I Additional Subordinate Court, Trichirappali District.

2.The brief facts of I.A.No.679 of 2015 is that the respondent, who is the plaintiff in the original suit, had executed a promissory note, dated 20.02.2014 for a sum of Rs.7 lakhs at the rate of 24% per annum in favour of the petitioner herein. Since the petitioner had defaulted to pay any amount towards principle or interest and further the petitioner herein had default in taking speedy steps to dispose of the immovable property, the respondent issued legal notice to the petitioner herein and the same was returned as "unclaimed" and again she sent a notice to the place of employment, which was also returned as "absent". Hence, the respondent filed this petition seeking for a direction to the petitioner to furnish security to the tune of Rs.9,50,000/-. In the said petition, the petitioner herein has filed counter statement denying the execution of the promissory notice and he never knew the respondent and sought for dismissal of the petition filed by the respondent.

3.The learned I Additional Subordinate Judge, Tiruchirappalli, had passed the order elaborately after perusing the materials placed on record and discussing the averments made by the petitioner as well as the respondent and came to a conclusion that



there is no proof or reliable documents on the side of the petitioner herein in disputing the money transaction and allowed the petition filed by the respondent. Aggrieved over the same, the petitioner filed the present civil revision petition.

4. Heard, Mr.T.Kamaraj, learned counsel for the petitioner.

5. The learned counsel appearing for the petitioner herein has contended that the Court below has not followed the procedure in sending notice to the petitioner to furnish the security and also the Trial Court has not given any reason for depositing the said amount by way of security. It is further contended by the learned counsel for the petitioner that the respondent has not stated anything regarding description of the property, the four boundaries and the extent and other related facts. The grievance of the petitioner is that he has not given sufficient time to furnish the security. Hence, the order of attachment has to be set aside.

6. On a perusal of the records, it is observed that the said petition was filed by the petitioner on 17.09.2015 and the counter was filed by the petitioner herein on 24.03.2016. After filing of the counter, the time was extended for enquiry and only after conducting enquiry and also perusing the documents filed by both of them, the trial Court passed the order of attachment. In the meanwhile, the petitioner was given sufficient time for furnishing the security. Hence, questioning the procedure adopted by the Trial Court is not fair enough. It is also further represented by the petitioner herein that he has marked the property subsequent to the filing of the suit. The suit was filed in the year 2015 and the property was attached on 15.02.2016 in the Bank. This itself shows that the petitioner has not filed this petition with *bona fide* intention. It is very much observed by the Trial Court that the transaction will be proved only after the full fledged trial. However, in the absence of any document or *bona fide* facts made by this petitioner and even after giving reasonable time for furnishing the security and the same was not paid by the petitioner herein and thereafter the order of attachment was passed. The order passed by the Trial Court is based on the enquiry and whereas the petitioner has not complied with the same. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //



To:

The I Additional Subordinate Judge,
Trichirappali District.

+1 CC to M/s.T.KAMARAJ, Advocate (SR-50610[F] dated 28/02/2019)

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