



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2019

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.R.P(MD)No.874 of 2019

and

C.M.P(MD)No.5113 of 2019

Manickasamy

.. Petitioner/
Defendant

Vs.

C.Patturaju

.. Respondent/
Plaintiff

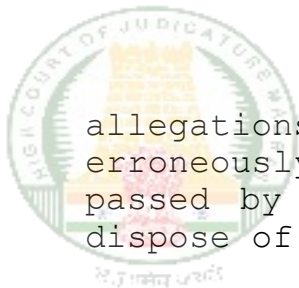
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 02.11.2018 made in I.A.No.66 of 2018 in O.S.No.55 of 2017 by the Additional District Court, Tenkasi.

For petitioner : Mr.R.Iyappan

ORDER

The respondent / plaintiff has filed the suit in O.S.No.55 of 2017 for recovery of money. The respondent / plaintiff also filed I.A.No.96 of 2017, seeking to direct the petitioner / defendant to furnish security for the principal amount, failing which, attach the petition schedule property before Judgment, in which, the petitioner / defendant filed an undertaking affidavit stating that he will not dispose of the property. Recording the same, the said petition was closed. Thereafter, the respondent / plaintiff filed the present petition seeking for the same relief on the apprehension that the petitioner / defendant will sell the property. The Court below ordered attachment before Judgment, against which, the present civil revision petition has been filed.

2.The learned counsel for the petitioner / defendant would submit that the respondent / plaintiff already filed I.A.No.96 of 2017, seeking to direct the petitioner / defendant to furnish security for the principal amount, failing which, attach the petition schedule property before Judgment, in which, the petitioner / defendant also filed an undertaking affidavit stating that he will not alienate or encumber the property, till the disposal of the suit. Recording the same, the said petition was closed. Since the case is posted for cross-examination of D.W.1, the respondent / plaintiff has filed the present interlocutory application with false



allegations, to drag on the proceedings. The Court below has also erroneously allowed the same. Thus, he prayed to set aside the order passed by the Court below and also to direct the Court below to dispose of the suit expeditiously.

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3. Heard the learned counsel for the petitioner / defendant and perused the materials available on record.

4. Perusal of records would show that already, the respondent / plaintiff filed I.A.No.14 of 2017 seeking to attach the petitioner's property for the principal amount and the same was closed on the undertaking given by the petitioner / defendant that he will not dispose of the property. It is seen from Ex.P.1 to Ex.P.3 that the petitioner and two others obtained loan from one Indira and they did not repay the same and also threatened her, for which, an FIR has been registered against the petitioner / defendant. Therefore, the apprehension made on the side of the respondent / plaintiff is reasonable that the property of the petitioner / defendant may be attached in respect of some other loan. The learned Judge after considering the above aspect, has rightly ordered attachment before Judgment, which in my considered opinion, requires no interference at the hands of this Court. Accordingly, this Civil Revision Petition is dismissed. However, the Court below is directed to dispose of the suit in O.S.No.55 of 2017 on merits and in accordance with law as early as possible, preferably within a period of six months from the date of receipt of a copy of this order. The Court below is directed to send the compliance report to the Registry of this Court. Both the parties are directed to cooperate with the Court below for early disposal of the suit. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar

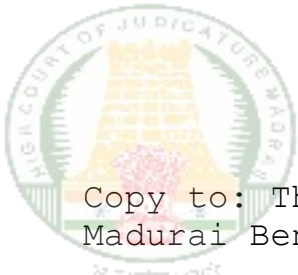
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Sub Assistant Registrar(CS)

To

1. The Additional District Judge,
Tenkasi.

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



Copy to: The Section Officer, Judicial Department,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.IYAPPAN, Advocate (SR-69525[F] dated 18/06/2019)

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smn

KK/SAR/05.07.2019/3P-6C