



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(PD) (MD) No.23 of 2017

and

C.M.P. (MD) No.83 of 2017

K.Amsaveni

... Petitioner/Respondent/Defendant
vs.

Nallasivam

... Respondent/Petitioner/Plaintiff

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the docket order made in I.A.No.894 of 2016 in O.S.No.449 of 2016 on the file of learned Sub Judge, Karur dated 15.09.2016.

For Petitioner : Mr.S.Gokulraj
For Respondent : Mr.M.P.Senthil

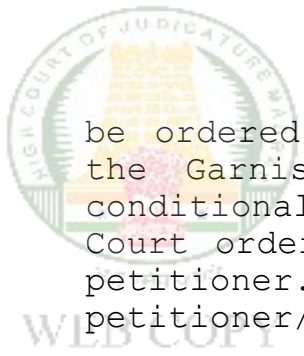
ORDER

This Civil Revision Petition has been filed to set aside the docket order made in I.A.No.894 of 2016 in O.S.No.449 of 2016 on the file of learned Sub Judge, Karur dated 15.09.2016.

2.I.A.No.894 of 2016 was filed by the respondent/plaintiff contending that the petitioner/defendant borrowed a sum of Rs.7,00,000/- for her family expenses and the original pro note was produced before the trial Court as document No.1. In spite of repeated requests and demands, the petitioner did not pay the same and hence, the respondent/plaintiff issued a legal notice. The petitioner/defendant also issued a reply notice denying the facts stated in the notice. Hence, the respondent/plaintiff filed a suit in O.S.No.449 of 2016.

3.In the said I.A., the petitioner herein is making delay to pay the said amount and she is also making hectic attempts to submit voluntary retirement application before the Garnishee. If the petitioner herein is permitted to do so, then the respondent/plaintiff will not be in a position to realize the decree amount and hence, the respondent/plaintiff sought for a direction to the petitioner/defendant to furnish security to the tune of Rs.8,60,300/- towards the suit amount, costs and future interest within the time granted by this Court and on her failure to do so, pleased to order to attach a sum of Rs.15,000/- every month from the net salary drawn by the petitioner/defendant.

4. The trial Court after hearing the arguments, issued notice to the petitioner herein and directed her to furnish security for the suit claim on or before 15.09.2016, failing which, attachment will



be ordered. On 15.09.2016, the learned counsel filed Vakalat for the Garnishee and the security was not furnished. Since the conditional order was not complied with, on 30.09.2016, the trial Court ordered attachment of Rs.15,000/- from the net salary of the petitioner. Aggrieved against the said order, the petitioner/defendant has filed the present Civil Revision Petition.

5.As per the direction of this Court, the petitioner herein filed an undertaking affidavit and her contention is as follows:

The above Civil Revision Petition came up for admission on 06.01.2017, while granting interim orders, this Hon''ble Court has directed me to file an undertaking affidavit to the effect that I will not alienate any of my immovable properties or I will not seek for retirement (VRS).

6.Further, the petitioner herein contended that she does not have any immovable property in her name as on date, but in compliance of the order passed by this Court dated 06.01.2017, she has filed the above undertaking affidavit undertaking that she will not alienate any of the immovable properties pending disposal of the above Civil Revision Petition and that she will not tender voluntary retirement.

7.Now, the learned counsel for the petitioner argued that to comply with the order dated 06.01.2017, the petitioner has filed the above undertaking affidavit and he would pray for speedy disposal of the suit.

8.On perusal of the records, it is seen that the suit was filed in the year 2016 and the said attachment order was passed in the year 2016. The petitioner has not complied with the said order and has preferred the present Civil Revision Petition in the year 2017 and only for the purpose of getting an order of interim stay, the said undertaking affidavit has been filed today.

9.On perusal of the records and on hearing both sides, it is seen that the petitioner herein has not paid any amount and the purpose of filing the said undertaking affidavit is only for delaying the proceedings and after getting an order of interim stay, the case has been proceeded till date and the petitioner has failed to furnish the security to the tune of Rs.8,60,300/- towards the suit amount, costs and future interest within the time.

10.In view of the above, the order dated 15.09.2016 passed in I.A.No.894 of 2016 in O.S.No.449 of 2016 by the learned Sub Judge, Karur, is hereby confirmed and the Civil Revision Petition is dismissed accordingly. The learned Sub Judge, Karur is directed to dispose of the case in O.S.No.449 of 2016 at the earliest and after disposal report the same to this Court and the Garnishee has to



attach the amount as per the direction of the trial Court. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Sub Judge,
Karur.

+1cc to Mr.M.P.SENTHIL, Advocate, SR.No. 52484

+1cc to Mr.S.GOKULRAJ, Advocate, SR.No. 52323

CRP(MD) No.23 of 2017

07.03.2019

MM

KK/SAR-/22.03.2019/3P-4C

—