



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 28.08.2019

CORAM

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

**C.M.A(MD) .No.632 of 2019**

**and**

**C.M.P. (MD) .Nos.7809 & 7810 of 2019**

Kanakaraj ... Appellant/Petitioner/Plaintiff

Vs.

Ramamoorthy ... Respondent /Respondent/Defendant

**PRAYER:-** This Civil Miscellaneous Appeal has been filed under Order 43 Rule 1(q) of the Civil Procedure Code, against the fair and executable order dated 02.04.2019 passed in I.A.No.10 of 2019 in O.S.No.5 of 2019 on the file of the Principal District Court, Dindigul.

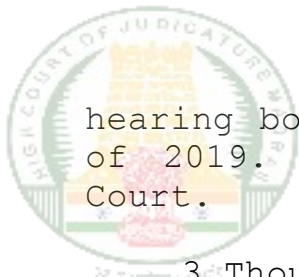
For Appellant : Mr.T.R.Jeyapalam

For Respondent : Mr.G.Gomathi Sankar

**ORDER**

This Civil Miscellaneous Appeal has been filed to set aside the fair and executable order dated 02.04.2019 passed in I.A.No.10 of 2019 in O.S.No.5 of 2019 on the file of the Principal District Court, Dindigul.

2. The learned counsel for the appellant would submit that the respondent borrowed a sum of Rs.30.00 lakhs from the appellant on 04.10.2016 for his family expenses and the respondent executed a promissory note, agreeing to repay the amount with interest at 12% per annum. In spite of appellant's repeated demands, the respondent has evaded to repay the said amount. Hence, the appellant filed a suit in O.S.No.5 of 2019 for recovery of principal amount along with accrued interest. Subsequently, the appellant filed an interlocutory application in I.A.No.10 of 2019 seeking for conditional attachment of immovable properties of the respondent/defendant directing him to furnish security for the suit claim and in default of his compliance, attach the immovable properties of the respondent/defendant before Judgment. After



hearing both sides, the learned Judge has dismissed the I.A.No.10 of 2019. Aggrieved over the same, the appellant before this Court.

3. Though the learned counsel for the appellant raised several grounds to set aside the fair and decreetal order passed in I.A.No.10 of 2019, he submitted that it would suffice, if a direction is issued to the respondent/defendant not to alienate the petition mentioned properties and he has also requested to issue a direction to the learned trial Judge to dispose of the suit within a time limit that may be stipulated by this Court. The learned counsel for the respondent has given an undertaking before this Court that he will not alienate the petition mentioned properties.

4. The aforesaid undertaking made by the learned counsel for the respondent is recorded. Since the suit is one for recovery of money, the learned Principal District Judge, Dindigul is directed to dispose of the suit in O.S.No.5 of 2019 within a period of one year from the date of receipt of a copy of this order.

5. With the above direction, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

msa

To

The Principal District Judge  
Dindigul.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate ( SR-84074[F] dated 29/08/2019 )

+1 CC to M/s.T.R.JEYAPALAM, Advocate ( SR-84086[F] dated 29/08/2019 )

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KM/ (20.09.2019) 2P 4C

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