



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD) .No.1187 of 2019

Ramesh

... Petitioner/
Respondent/2nd defendant

Vs.

M.Balachandran

... Respondent /
Petitioner / Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 05.03.2019 passed in I.A.No.90 of 2018 in O.S.No.26 of 2018 by the Additional District cum Fast Track Mahila Court, Karur.

For petitioner

: Mr.V.Sukumar

ORDER

This Civil Revision Petition has been filed by the petitioner challenging the order, dated 05.03.2019, passed in I.A.No.90 of 2018 in O.S.No.26 of 2018, whereby and whereunder the Court below has allowed the petition filed by the respondent herein seeking to direct the petitioner herein to furnish sufficient security for the suit amounts, in default order to attach the petition mentioned property before judgment.

2. The respondent herein as plaintiff has filed the suit in O.S.No.26 of 2018 for recovery of a sum of Rs.33,99,165/- against five persons. The petitioner herein is arrayed as the 2nd defendant in the suit. Since the petitioner/2nd defendant has got only immovable property mentioned in the petition and he has got some other debts also, during the pendency of the suit, the respondent/plaintiff has filed I.A.No.90 of 2018 seeking to direct the petitioner herein/2nd defendant to furnish sufficient security to the suit amounts, in default order attachment of the petition mentioned property of the petitioner/2nd respondent. The Court below has allowed the same. Challenging the same, the petitioner/2nd defendant has filed this Revision Petition.



3. Heard the learned counsel for the petitioner and perused the materials available on records.

4. It is seen that the first defendant in the suit is a firm, in which the petitioner herein/2nd defendant and one N.Gokulakrishnan were partners. The said N.Gokulakrishnan died on 25.08.2019. It is the case of the respondent /plaintiff that just two days before death, the said N.Gokulakrishnan has borrowed a loan of Rs.25 lakhs, for which he executed a suit promissory note and since the petitioner/2nd respondent is attempting to sell his only property - Ex.P1, he has filed this petition seeking to attach the property before judgment. According to the petitioner/2nd defendant, the suit promissory note is a forged one and even assuming that the loan has been obtained by the other partner, it has not been borrowed as per the partnership agreement and that he has no idea of selling the petition mentioned property.

5. The Court below has held that though it is contended by the petitioner/2nd defendant that he will not dispose the petition mentioned property, he has not chosen to reduce it in writing. He has also not mentioned in the counter that he has no other debt and he owned properties other than the property mentioned in the petition. The respondent/plaintiff apprehended that the petitioner/2nd defendant may dispose the property mentioned in the petition with intent of defeating and defrauding the loan amount. The Court below, after relying upon a decision of the Hon'ble Supreme Court in the decision in Padamsen Vs. State of U.P. reported in AIR 1961 SC 218 and satisfying himself as per Order 38 Rule 5 of C.P.C. has ordered the petition. This Court does not find any reason to interfere with the order passed by the Court below.

6. In view of the above, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional District Court cum
Fast Track Mahila Court, Karur.

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