IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

CMA.NO.3454 OF 2019 and
CMP.No.20246/2019

C.Sridhar,
S/o.M.Chandra Mohan,
Proprietor,
M/s.Srivel Textiles,
No.2/24, 4th Street,
Town Extension, Tiruppur. ... Appellant/Defendant

-vs-

K.K.Ajith Kumar ... Respondent/Plaintiff

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC. against the fair and decreetal order dated 08.07.2019 passed in I.A.No.2/2019 in O.S.No.249/2019 on the file of the learned I Additional District Judge, Coimbatore.

For Appellant : No appearance

For Respondent : Ms.R.Shase

J U D G M E N T

The respondent herein/plaintiff has filed a suit in O.S.No.249/2019 on the file of the learned I Additional District Judge, Coimbatore, for recovery of a sum of Rs.78,16,306.84p with subsequent interest thereon at 24% p.a. on 74,00,000/- from the date of the suit till the date of realization. He has also moved I.A.No.2/2019 seeking attachment before judgment under Order 38 Rule 5 and Section 151 of CPC. A third party affidavit has also been filed in I.A.No.2/2019 by the defendant proving that an attempt has been made to sell away the suit property. Thereafter, the learned I Additional District Judge, Coimbatore, has passed an order, directing the defendant to furnish security for the suit amount, failing which, ordered for attachment of the suit property-in-question, by order dated 08.07.2019. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed.

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2. When the matter was taken up today, no one appears for the appellant, on the other hand, the learned Counsel for the respondent submitted that it is only an order of attachment before judgment under Order 38 Rule 5 of CPC and Section 151 of CPC. and the main suit is still pending before the trial court.

3. Considering the fact that the main suit in O.S.No.249/2019 is still pending on the file of the learned I Additional District Judge, Coimbatore and only the I.A.No.2/2019 has been disposed of and also taking into account the fact that there was no representation for the appellant, the Civil Miscellaneous Appeal is dismissed for non-prosecution, with a direction to the trial court to dispose of the suit in O.S.No.249/2019 expeditiously, more preferably, within a period of six months from the date of receipt of a copy of this Order.

4 . With the above observation and direction, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/
Sub Asst. Registrar

tsi
To
The I Additional District Judge, Coimbatore.

+1 cc to Mr.Guruprasad Advocate sr37221
+1 cc to Mr.GoviGanesan Advocate sr37250

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