

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P. (PD) No.974 of 2021

and

C.M.P.No.7819 of 2021

M/s.Canara Bank,
Mount Road Branch,
rep. by its Assistant General Manager,
781-785, Rayala Towers,
Anna Salai, Chennai-600 002. ..Petitioner/plaintiff

Vs

1.M/s.M.V.R.Automobiles Private Limited,
rep. by its chief Executive Officer,
Audi Goa, H.No.15/153/A1,
Opposite to Harley Davidson Showroom,
Caranzalem Panaji,
Goa-403 002.

2.Audi India,
Volks Wagen Group India Private Limited,
3rd and 4th Floor, Silver Utopia,
Cardinal Gracious Road, Chakala-Andheri East,
Mumbai-400 093

3.Mohammed Musamil
4.Naseem Banu

5.The Branch Manager,
Union Bank of India,
Gouri Navas,
Dr. Atmaram Barker Road,
Panjim Panaji,

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Goa-403 001

...respondents

Civil Revision Petition filed under Article 227 of Code of Civil Procedure to set aside the order of notice dated 02.03.2021 passed in I.A.No.2 of 2021 in O.S.No.837 of 2020 on the file of the XXIII Additional City Civil Court, Chennai.

For Petitioner .. M/s..K.R.Ananda Gomathy

For Respondents .. No Appearance

ORDER

This Revision Petition has been filed, praying to set aside the order of notice dated 02.03.2021 passed in I.A.No.2 of 2021 in O.S.No.837 of 2020 on the file of the XXIII Additional City Civil Court, Chennai.

2.The plaintiff in O.S.No.837 of 2020 now pending on the file of the XXIII Additional City Civil Court, Chennai, is the revision petitioner herein. The plaintiff had filed a suit for recovery of money as against the defendants 1 to 4. In the said suit, the plaintiff had taken out an application in I.A.No.2 of 2021 primarily in the nature of prohibitory or garnishee order in view of the fact that an amount of Rs.14,00,000/- was lying in the account of the 1st defendant/respondent with the fifth

respondent bank/garnishee. In the said I.A., the learned Additional District Judge has directed notice to be issued. Questioning the same, the present CRP has been filed.

3.The learned counsel states that even without hearing the parties, a prohibitory order should be passed, since, if notice is served then there is a possibility of the money being withdrawn by the first defendant/respondent.

4.The petitioner cannot suggest as to how an order is to be passed by the learned Judge. It is the discretion of the learned Judge either to direct notice or to pass an order of interim injunction and such orders are based on weighing, on the basis of the averments, whether a prima facie case has been made out. The amount claimed by the petitioner lying with the fifth respondent bank/garnishee could also be with respect to any other transaction. Therefore, I am not inclined to interfere with the notice ordered by the learned Judge.

5.The only apprehension of the petitioner is that on receipt of the notice, the 1st defendant/respondent would immediately withdraw the sums lying in the account maintained with 5th respondent bank.

But at the same time, it is incumbent on the Court below to ascertain as to whom the money belongs to and that fact would come to light only after notice served on the 5th respondent bank.

6. Notice in the application has been ordered by the learned Judge. This is a preliminary step and it does not decide the *lis* finally. Hence, the order of the Court below, ordering notice cannot be the subject matter of revision under Section 115 of CPC. The revision itself is not maintainable. The petitioner herein has to go back to the trial Court to comply with the order of the trial Court.

7. With these observations, the Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

सत्यमेव जयते

26.04.2021

Internet: Yes/No

Index: Yes/No

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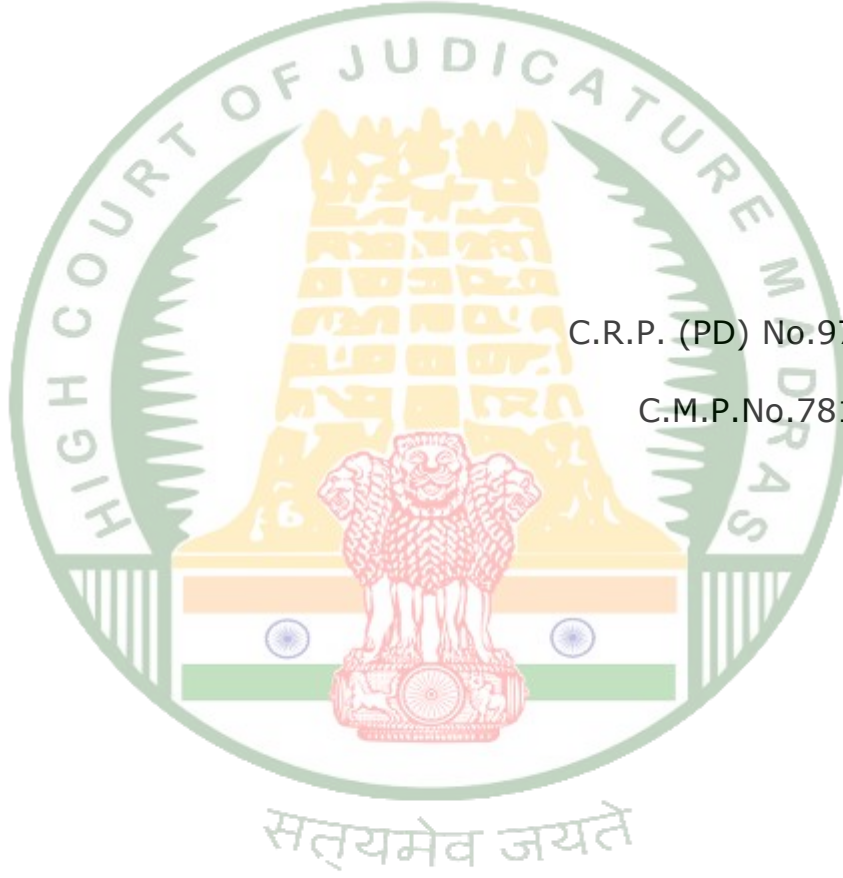
To

The XXIII Additional City Civil Court,
Chennai

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C.V.KARTHIKEYAN,J.

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