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A. Nos.2095 and 2096 of 2020
in
CS No.83 of 2019

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ABDUL QUDDHOSE, J.

A. No. 2095 of 2020 has been filed by the plaintiffs seeking for a direction to the respondent / defendant to pay the dues of the applicants first, as soon as the respondent has any amount to pay towards his dues, in preference and exclusive to any of his other dues which allegedly he may have.

2. A. No.2096 of 2020 has been filed by the plaintiffs seeking for a direction to the respondent / defendant to furnish security to the satisfaction of this Court, failing which an order directing conditional attachment of the suit Schedule mentioned property being the Residential apartment bearing Flat No.2A, Second Floor, Old No.63, New No.123, Orchard Court, Pasumpon Muthuramalinga Thevar Road, Chennai – 600 018 along with appropriate undivided share of land, owned by the respondent, over and above the alleged claim if any, of State Bank of India over the said suit schedule mentioned property.

3. By order dated 11.03.2021 in O.A. No.425 of 2020 filed by the applicants, this Court ordered attachment of the property mentioned in the schedule to the judges summon in that application in favour of the applicants/ plaintiffs and granted second charge over the said property



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as the said property has already been encumbered with State Bank of India. The respondent has filed the counter in this application viz., A. No.2095 of 2020 wherein they have categorically expressed that the respondent due to his financial position is unable to pay the dues of the applicants. According to the respondent, he is unemployed now and except the property which is the subject matter of attachment in O.A. No.425 of 2020, the respondent does not own any other property. Admittedly, the respondent is the Ex-husband of the first applicant / first plaintiff. Since the respondent through an affidavit has stated that he does not have any means to pay the dues, this Court is of the considered view that since the applicants / plaintiffs having received some portion of the amount under the Memorandum of Understanding entered into between the applicants and the respondent, the security already given to the applicants by the order of attachment is sufficient for the present. Therefore, A. Nos.2905 and 2906 of 2021 are ordered to be closed and the parties are directed to go for trial.

4. The learned counsel for the defendant submits that the Written Statement has already been filed into the Registry which has been returned by the Registry. She seeks time to re-present the same.

5. The learned counsel for the defendant is directed to re-present the Written Statement, within a period of one week from today.



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6. Registry is directed to place the Written Statement before this Court once it is received by this Court on the next hearing date for framing of issues.

7. Post the matter for framing of issues on 01.12.2021.

16.11.2021

vsi2/ab



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vsi2

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