

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.1800 of 2021
and C.M.P. No.13985 of 2021

N.Karthickprabhu

...

Petitioner /
Defendant

versus

M.Manikandan

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the Docket Order dated 19.03.2021 made in I.A.No.61 of 2021 in O.S.No.60 of 2021 on the file of the learned Sub Judge, Udumalpet, by allowing this Civil Revision Petition.

For Petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.Deepan Uday

ORDER

This Civil Revision Petition is filed, challenging the Docket Order dated 19.03.2021 passed by the learned Sub Judge, Udumalpet in I.A.No.61 of 2021 in O.S.No.60 of 2021.

2. The learned counsel for the petitioner submitted that, the respondent filed the suit in O.S.No.60 of 2021 for claiming a sum of Rs.3,84,000/-. This suit was filed on the basis of the promissory note said to have been executed by the petitioner in favour of the respondent. The respondent filed I.A.No.61 of 2021 under Order 38 Rule 5 of C.P.C. for attaching the properties mentioned in the petition before attachment. The trial Judge ordered 6-A notice returnable by 19.03.2021. 6-A notice was served on the petitioner for the hearing on 19.03.2021. It is submitted by the learned counsel for the petitioner that, due to break down of the vehicle, the petitioner could not reach the Court in time and therefore, the petitioner was set *ex parte* and attachment of property was ordered. Subsequently, the property was also attached. Challenging the order of setting the petitioner *ex parte* on 19.03.2021 and ordering attachment, this Civil Revision Petition is preferred.

3. The learned counsel for the respondent submitted that, the attachment was already ordered. It is also submitted by the learned counsel for the petitioner that, the petition to set aside the *ex parte* order dated 19.03.2021 and the petition for raising of attachment are filed and pending.

4. Considered the rival submissions and perused the records.

5. In this case, 6-A notice was served on the petitioner for the hearing on 19.03.2021. Since the petitioner has not appeared before the trial Court, the petitioner was set *ex parte* and the attachment order was passed. The petitioner ought to have filed an application before the trial Judge for setting aside the *ex parte* order passed on 19.03.2021. Instead of filing that petition, the petitioner directly filed this Civil Revision Petition. This procedure is not in accordance with law. Therefore, this Civil Revision Petition is dismissed, with costs of Rs.1,000/- [Rupees One Thousand only] to the respondent. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

6. In view of the submission that, already there are applications filed to set aside the *ex parte* order dated 19.03.2021 and for raising the attachment, the learned Sub Judge, Udumalpet, is directed to dispose of those applications, on merits and in accordance with law.

07.10.2021

Speaking order / Non-speaking order

Index : Yes / No

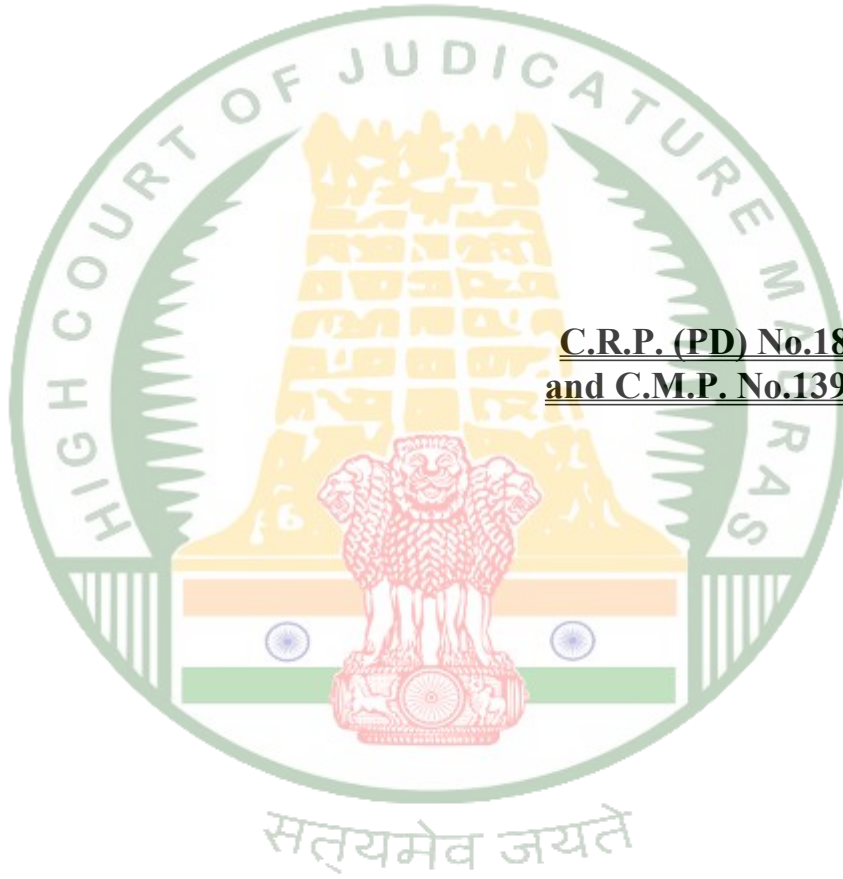
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G.CHANDRASEKHARAN, J.

sri

To

The Sub Judge, Udumalpet.



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