

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1703 of 2021
and C.M.P.No.13186 of 2021**

Simplex Infrastructures Ltd,
Rep. by its Authorized Signatory
R.Swaminathan
Registered Office:
"Simplex House", No.27, Shakespeare Sarani
Kolkata - 700 017.
Chennai Branch Office
"Heavitree Building", 1st Floor
No.47/23, Spurtank Road
Chetpet, Chennai - 600 031.

...Petitioner

Vs.

Manoj Kumar A.Gandhi

...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the petition order dated 09.04.2021 of the VI Additional City Civil Judge at Madras in IA No.2 of 2021 in OS No.3156 of 2021 directing the Petitioner to furnish security.

For Petitioner : Mr.O. Solaiappan

ORDER

This Civil Revision Petition is filed, to set aside the petition order dated 09.04.2021 of the VI Additional City Civil Judge at Madras in IA No.2 of 2021 in OS No.3156 of 2021 directing the Petitioner to furnish security.

2.The learned counsel for the petitioner submitted that the respondent filed a suit in O.S.No.3156 of 2021 for a money decree, based on the business dealings and also filed an application in I.A.No.2 of 2021 under Order 38 Rule 5 (1) & 6 of CPC to furnish security, to the tune of Rs.19,75,767/- or to attach the property before judgment. While entertaining the I.A.No.2 of 2021, the learned Trial Judge without following the procedure under Order 38 Rule 5 (1) of CPC directed the petitioner to offer security for a sum of Rs.19,75,000/- on or before 23.04.2021. Against the said order, the present Civil Revision Petition is filed.

3.It is stated that the suit in O.S.No.3156 of 2021 that it was filed for recovery of money and along with the suit, a petition under Order 38 Rule 5 (1) & 6 of CPC was filed, for attaching certain immovable properties before judgment. Perusal of the affidavit filed in support of the petition in I.A.No.2 of 2021 shows that the respondent apprehend that the petitioner

with an intent to delay and defeat the execution of the decree, that may be passed against it, is making all arrangements to leave the local limits of the jurisdiction of this Court and also attempting to dispose of its immovable properties, listed in the schedule. Thus, it is clear from the averments that the respondent apprehend that the petitioner will leave from the jurisdiction of this Court and will dispose the immovable properties. The Trial Court order dated 09.04.2021 runs as follows,

"Heard. The respondent shall offer security for a sum of Rs.19,75,000/- on or before 23.04.2021. Issue notice to respondent returnable by 23.04.2021 specifically to offer security. Private notice is also permitted."

4.Further, Order 38 Rule 5 provides that when the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,- (a) is about to dispose of the whole or any part of his property, or (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, the Court may direct the defendant, within a time to be fixed by it, either to furnish security, or to appear and show cause why he is not furnished security.

5.The learned Trial Judge, in his order dated 09.04.2021 directed the petitioner to furnish security and at the same time, he caused notice with a direction to furnish security on or before 23.04.2021. Thus order of the learned VI Additional Judge, City Civil Court, Chennai is perfect under Order 38 Rule 5 of CPC and therefore, this Court finds no reason to interfere with the order dated 09.04.2021 made in I.A.No.2 of 2021 in O.S.No.3156 of 2021.

6.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
To

26.08.2021

1.The VI Additional Judge, City Civil Court, Chennai.
2.The Section Officer
VR Section
High Court of Madras.

G.CHANDRASEKHARAN.J.

C.R.P.(P.D).No.1703 of 2021

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