



WEB COPY



C.R.P.(PD).No.2600 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2600 of 2021

and

C.M.P.No.19323 of 2021

M.Pachaiappan

.. Petitioner

Vs.

Jothimani

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order made in I.A.No.109 of 2021 in O.S.No.80 of 2021 vide order dated 10.08.2021 on the file of the Sub-Court, Dharapuram.

For Petitioner : Mr.N.Stalin



C.R.P.(PD).No.2600 of 2021

WEB COPY

ORDER

Challenge in this Revision is to the order of the trial Court dismissing the application filed by the petitioner, who is the plaintiff in the suit in O.S.No.80 of 2021, seeking attachment of the properties of the defendant.

2. The suit itself was laid for recovery of a sum of Rs.6,00,000/-, with subsequent interest from the defendant, out of the estate of her husband's money who is no more. Along with the suit, the petitioner filed an application in I.A.No.109 of 2021 seeking attachment of the properties in the hands of the defendant on 12.02.2021. The Court passed an order directing the defendant to furnish security. Thereafter, the defendant filed counter stating that she had already sold the property on 12.02.2021 and the said sale was registered subsequently upon orders of this Court in W.P.No.6172 of 2021.



C.R.P.(PD).No.2600 of 2021

3. The trial Court took note of the sale and held that after the sale deed taken place, the Court cannot pass an order of attachment. The trial Court also took note of Section 47 of the Registration Act, which provides that the sale will take effect from the date of execution and not from the date of registration of the sale deed. The sale deed was executed on 12.02.2021, the date on which the Court ordered the defendant to furnish security. Since the property did not belong to the defendant, the trial Court held that there cannot be an order of attachment. I do not see any reason to fault the trial Court for coming to such conclusion. Unfortunately for the plaintiff, the plaint was filed on the date when the sale deed was executed.

4. In *Hamda Ammal Vs. Avadaiappa Pathar* reported in **1991 (1) SCC 715**, the Hon'ble Supreme Court had made it very clear that the sale deed will take effect from the date of execution and an attachment made after sale, before registration would not bind the purchaser.

5. In view of the law laid down by the Hon'ble Supreme Court as



C.R.P.(PD).No.2600 of 2021

above, I do not see any reason to interfere with the order of the trial Court.

The Revision therefore fails and it is accordingly **dismissed**. No costs.

Consequently, the connected miscellaneous petition is closed.

30.11.2021

dsa

Internet :Yes

Index : No

Speaking order



C.R.P.(PD).No.2600 of 2021

To

WEB COPY

The Sub-Court, Dharapuram.



WEB COPY



C.R.P.(PD).No.2600 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(PD).No.2600 of 2021

30.11.2021