



CRP (PD) No.2462 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2462 of 2021
and CMP No.18597 of 2021

P.Saranya

... Petitioner

Vs

1. T.Srivastan
2. S.Rama

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the docket order passed in I.A.No.2 of 2021 in O.S.No.2150 of 2021, dated 22.03.2021 on the file of the III Additional City Civil Court, Chennai.

For Petitioner : Mr.S.Jerald Lenin

ORDER

The order challenged in this revision is an order, directing the petitioner to furnish security of the suit claim, dated 22.03.2021.

2. The respondents herein filed a suit in O.S.No.2150 of 2021



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seeking recovery of money, which according to the respondents, is the advance paid pursuant to an agreement entered into between the parties on 24.07.2020. The prayer in the suit is for declaration that the agreement is cancelled and for refund of advance.

3. Along with suit, the respondents herein filed an application in I.A.No.2 of 2021 under Order XXXVIII Rule 5 seeking attachment of the property. The trial Court ordered notice to furnish security on 22.03.2021. The said notice appears to have been served on the petitioner some time in July 2021 and thereafter, time has been granted to the petitioner to file written statement and counter.

4. The grievance of the learned counsel for the petitioner is that the order dated 22.03.2021 required the petitioner to furnish security and the Court may at any time make an order of attachment on failure to furnish security.

5. The Court has not till date exercised the power under Order



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XXXVIII Rule 6 of Code of Civil Procedure, granting an order of attachment on failure to furnish security. The case has been adjourned for more than eight months now for filing counter and written statement. It is open to the petitioner to file counter and written statement, demonstrating as to why he should not be called upon to furnish security. The Revision therefore fails and it is accordingly dismissed. The trial Court shall pass orders on the application for attachment on merits without proceeding under Order XXXVIII Rule 6 of Code of Civil Procedure. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2021

vum

Note: Issue order copy on 22.11.2021

Index: Yes/No

Speaking order / Non speaking order

To:

The III Additional City Civil Court, Chennai.



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R.SUBRAMANIAN, J.

vum

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