



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM

THE HONOURABLE MS.JUSTICE P.T. ASHA

C.M.A.No.347 of 2022

&

C.M.P.No.2411 of 2022

1.Tamizharasi

2.Raja @ Rajamanikkam

3.Sakthivel

4.Ariprasad

5.Vijayalakshmi

...Appellants/Defendants 2 to 6

Vs

1.Prakash

2.Thilakavathi

3.Sathish Kumar

...Respondents/Plaintiffs/Defendants No.1

Prayer: Appeal filed under Rule 43 Rule 1 of the CPC against the Docket order passed in I.A.No.1868 of 2019 against O.S.No.67 of 2019 dated 20.11.2020 on the file of the III Additional District & Sessions Court at Viruddachalam.

For Appellants : Mr.E.K.Kumaresan

ORDER

Challenging the order dated 22.06.2020, whereby an attachment order is passed, the respondents are before this Court. The brief facts are as follows:

2.The suit O.S.No.67 of 2019 was filed by the respondents 1 and 2 on the file of the III Additional District and Sessions Court, Viruddachalam, for recovery of a sum of Rs.10,35,680/-. Pending the suit, the plaintiffs had taken out an application under Order XXXVIII Rule 5 of the Code of Civil Procedure directing the defendants (appellants and 3rd respondent herein) to furnish security to the tune of the suit claim.

3.The learned III Additional District and Sessions Judge, Viruddachalam had on 26.02.2020 directed the respondents / appellants to furnish security to the suit claim on or before



05.03.2020. Since furnishing of security was not done on the said date i.e., on 05.03.2020, an attachment was ordered to be effected by 24.03.2020. On 24.03.2020, the warrant was not ready and therefore the matter was adjourned to 07.04.2020. Thereafter, on 22.06.2020, the immovable properties had been attached.

4.Challenging the attachment, the appellants herein had filed this appeal on 07.02.2022. The attachment was thereafter made absolute on 20.11.2020. However, the appellants have only challenged the order dated 22.06.2020. The records would show that the appellants had not challenged the order directing them to furnish security. Despite being put on notice, about the said application, the appellants have not even filed their counter to the said application. I.A.No.1868 of 2019 had been filed on 23.09.2019. Notice had been ordered to the appellants in I.A.No.1868 of 2019 by 15.11.2019 and on 15.11.2019, the notice had been served on the appellants. Thereafter, since the appellants had not proceeded to furnish security, orders were passed on 26.02.2020, directing the respondent to furnish security on or before 05.03.2020, failing which attachment orders were to follow. However, security had not been furnished.

5.Thereafter, the Court had proceeded to pass order of attachment and the attachment has also been made absolute. Therefore, no cause has been made out for any interference to the said impugned order.

6.TheCivil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To
The III Additional District & Sessions Court,
Viruddachalam.

Copy To
The Section Officer,
V.R. Section, High Court of Madras.
+lcc to Mr.E.K.Kumaresan, Advocate, S.R.No.12506

C.M.A.No.347 of 2022

PMK(CO)
RGA(23/03/2022)