



C.R.P.(NPD) No.934/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

**C.R.P.(NPD)No.934 of 2022
and
CMP.No.4756 of 2022**

Ezhilarai

...

Petitioner

Vs.

C.Sivakolundu

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Indian Constitution, to set aside the order dated 04.01.2022 made in E.P.No.222/2021 in OS.No.128/2011 on the file of the II Additional District Judge at Pondicherry.

For Petitioner : Mr.S.Sudarshan

For Respondent : Mr.Kirupakaran for
M/S V.S.Senthilkumar



WEB COPY



ORDER

This Civil revision Petition has been preferred challenging the order of the learned II Additional District Judge, Pondicherry, dated 04.01.2022, made in E.P.No.222/21 in OS.No.128/2011.

2. The revision petitioner is the judgment debtor and defendant in the suit filed by the respondent for recovery of money and the same was decreed on 04.01.2021. Subsequently execution proceedings were initiated to recover the decretal amount. During that course, petition mentioned property was attached.

3. When the matter was taken up, during the last hearing, the learned counsel for the petitioner submitted that the property under attachment is multiple times higher in value than the value of the decretal amount and hence, the respondent can seek attachment over the suit property itself. Taking into consideration of the submission of the learned counsel for the petitioner, an order has been passed on 08.07.2022 about the feasibility of attaching the suit property in terms of Sec.55(6)(b) of the Transfer of Property Act.



WEB COPY

C.R.P.(NPD) No.934/20__



4. It has to be mentioned at this juncture that the suit has been filed for recovery of earnest money paid in connection with the sale agreement dated 21.11.2008 and the same was partly decreed.

5. The learned counsel for the respondent submitted that the suit property cannot be attached for recovery of decree amount because of the contention made by the revision petitioner herself in the suit that the subject matter of the sale agreement does not belong to her.

6. The learned counsel for the revision petitioner also submitted that he could not receive any instructions from the revision petitioner.

7. Whatever may be the situation, the fact remains that the civil revision petitioner had taken the defense that the subject matter of the sale agreement does not belong to her. Having taken such a stand in the suit, now, she cannot divert the court's attachment during execution proceedings to the property involved in the sale agreement. Since the petition mentioned property belongs to the civil revision petitioner and the decree is very much valid and not stayed by any order of the Court, the learned Trial Judge has



WEB COPY



C.R.P.(NPD) No.934/20__

right in ordering the attachment. Since the order does not suffer any illegality or infirmity, I find no reason for interference.

Thus, the present Civil Revision Petition is **dismissed**. The order of learned II Additional District Judge, Puducherry, dated 04.01.2022, made in E.P.No.222/21 in OS.No.128/2011 is confirmed. No costs. Consequently connected miscellaneous petition is also closed.

26.07.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



WEB COPY



C.R.P.(NPD) No.934/20__



C.R.P.(NPD) No.934/20__

R.N.MANJULA, J.,

jrs

WEB COPY

- To
1. The II Additional District Judge, Puducherry.
 2. The Section Officer,
VR Section, Madras High Court,
Chennai.

**C.R.P.(NPD)No.934 of 2022
and
CMP.No.4756 of 2022**

26.07.2022