

**A.Nos.812 of 2022****in E.P.No.209 of 2018****KRISHNAN RAMASAMY, J.,**

A.No.812 of 2022 has been filed to set aside the impugned order dated 12.01.2022 in A.No.2372 of 2021 in E.P.No.209 of 2018 of the learned Master and consequently allow A.No.2372 of 2021 to recall the attachment warrant and prohibitory order dated 14.02.2022 passed by the learned Master in E.P.No.209 of 2018 in C.S.No.594 of 2012 and further directing the Sub Registrar, Teynampet, and the Sub Registrar, Mylapore to delete the entries made in their Registers over the schedule properties and delete, release and discharge the schedule properties from the proceedings in E.P.No.209 of 2018.



WEB COPY 2.A decree dated 03.04.2017 was passed in C.S.No.594 of 2012

by this Court against the judgement debtor namely M/s. Pioneer Alloy Casting Ltd. In the said suit, this Company is the sole defendant. The suit filed is filed for recovery of money.

3.According to the applicant, since the judgement debtor/Company has not complied with the decree, the decree holders have filed E.P.209 of 2018, wherein, the learned Master has passed order dated 22.03.2021, attaching the family properties of the applicant herein. According to the applicant, in the description of the property mentioned in the application, the personal assets belonging to the applicant has been wrongly mentioned as that of the Company.

4. According to the applicant, the property attached is the personal property of the applicant/objector. Therefore, he filed third party objector application in A.No.2372 of 2021 in E.P.No.209 of 2018 to



recall the attachment warrant and prohibitory order dated 22.03.2021.

However, without considering the the objections raised by the objector, the learned Master, vide order dated 12.01.2022 has dismissed the application. Aggrieved by the same, the present application in A.No.812 of 2022 has been filed to set aside the said order.

5.The learned counsel for the applicant would submit that the property which was ordered to be attached in E.P.No.209 of 2018 is the property not belonging to the Company but belonging to the applicant herein. He pointed out that the decree was passed in the suit against the Company, which is the sole defendant, but not against the applicant/objector herein. When such being the case, he would submit that without any authority or provision of law, the property of the applicant has been attached. Therefore, the learned counsel would submit that since the details of the property in execution petition were furnished wrongly as if belonging to the Company, but actually belonging to the applicant, however, without considering the objection



WEB CO raised by the applicant, the learned Master has erroneously passed the order, which is liable to be set aside.

6.The learned counsel for the respondents on the other hand would submit that the applicant, being Director of the company is well aware of the pendency of the suit and the description of the property mentioned therein, but allowed herself to be set ex parte and only raising objections in the execution proceedings. He would also submit that it is the Company of the applicant's family and therefore, the properties are utilised for the purpose of Company and as such, since the properties are belonging to the company, the learned Master has rightly considered this aspect and rejected the same, which does not require interference.

7.However, upon perusal of the documents, it is not in dispute that the property under attachment stands in the name of applicant's father, in which the applicant is having interest by way of partition. Therefore,



the applicant has rightly raised the objections stating that the property is not belonging to the company/defendant in the suit and no decree has been passed against him. Further, admittedly, the judgment debtor is the Company only and the decree was not obtained against any of the Directors in their personal capacity. The respondents are not in a position to convince and establish before this Court that the subject property under attachment is exclusively belonging to the Company. When such being the case, the learned Master, without considering the objections raised by the applicant and without verifying the description of the property properly has erroneously ordered attachment of the property which is admittedly not belonging to the defendant/company and no decree as against the Directors of the Company including the applicant can be passed. Therefore, this Court is of the view that the order passed by the learned Master, dated 12.01.2022 is liable to be set aside.

8. Accordingly, this application is allowed and the impugned



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order dated 12.01.2022 in A.No.2372 of 2021 in E.P.No.209 of 2018 passed by the learned Master is set aside and consequently A.No.2372 of 2021 to recall the attachment warrant and prohibitory order dated 22.03.2021 passed by the learned Master in E.P.No.209 of 2018 in C.S.No.594 of 2012 is allowed.

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26.08.2022

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