



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.04.2022**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P (MD)No.1454 of 2012

and

M.P (MD)No.1 of 2013

Velayudhan Pillai ... Petitioner/
1st Respondent/Plaintiff

Vs.

1.Kolappan ... 1st Respondent/
Petitioner/2nd Defendant
2.Perumal Pillai ... 2nd Respondent/
2nd Respondent/1st Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India as against the fair and decreetal order, dated, 11.08.2010, made in I.A.No.216 of 2005 in O.S.No.29 of 2004 on the file of Sub-Court, Kuzhithurai.

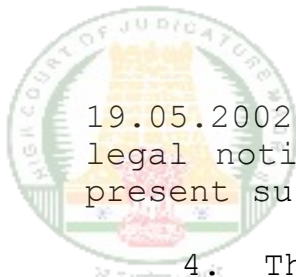
For Petitioner : Mr.Vashik Ali
for Mr.G.Kandha Vadivelan
For Respondents : Mr.K.N.Thambi
for R1
No appearance
for R2

ORDER

The revision petitioner is the plaintiff in the suit. The plaintiff filed O.S.No.29 of 2004 before Sub-Court, Kuzhithurai for the relief of recovery of money. Pending suit, the property of the first defendant was attached. The second defendant, who is said to have purchased from the first defendant had filed I.A.No.216 of 2005 to raise the order of attachment before judgment.

2. The learned trial Judge heard the suit as well as I.A.No.216 of 2005 together. The suit filed by the plaintiff was ultimately decreed, but I.A.No.216 of 2005 was closed, thereby, raising the order of attachment made before judgment. Challenging the said order, this civil revision petition has been filed.

3. The first defendant is said to have borrowed a sum of Rs.1,00,000/- (Rupees One Lakh only) from the plaintiff on



19.05.2002. Since the amount was not paid, the plaintiff sent a legal notice to the first defendant on 22.03.2004. Thereafter, the present suit for recovery of money was filed on 28.10.2005.

4. The first defendant had sold away the property under attachment on 26.12.2003, which is four months prior to the filing of the suit. In view of the said fact, the trial Court was pleased to raise the attachment.

5. I do not find any illegality in the order passed by the learned trial Judge in holding that since on the date of attachment, the first defendant did not have any title over the suit schedule property. Especially, when the sale has been effected by the first defendant in favour of the second defendant, which is four months prior to the filing of the suit and three months prior to the sending of the legal notice by the plaintiff. The order passed by the learned trial Judge is confirmed. This Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gbg

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Sub-Judge, Kuzhithurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.K.N. THAMPI, Advocate (SR-17122[F] dated 07/04/2022)

+1 CC to M/s.R. MURUGAN, Advocate (SR-17241[F] dated 07/04/2022)

C.R.P(MD)No.1454 of 2012

06.04.2022

RD(21.04.2022) 2P 6C