



WEB COPY

C.M.A.(ML



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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 14.09.2022

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

**C.M.A. (MD) No.677 of 2022**

**and C.M.P. (MD) No.5855 of 2022**

S.Kanagalakhmi

... Appellant/Respondent/Defendant

Vs.

V.Ramesh

represented by his power  
agent S.Maheswari

... Respondent/Petitioner/Plaintiff

**Prayer :** This Appeal filed under order 43 rule (1) of Civil Procedure Code, to allow the Memorandum of Civil Miscellaneous Appeal against order dated 25.04.2022 made in I.A.No.2 of 2022 in O.S.No.37 of 2022 on the file of the 2<sup>nd</sup> Additional District Court, Tuticorin.

For Appellant

: Mr.B.Rajesh Saravanan

For Respondent

: Mr.M.Thirunavukkarasu

**JUDGMENT**

This Civil Miscellaneous Appeal is directed against the order passed in I.A.No.2 of 2022 in O.S.No.37 of 2022 dated 25.04.2022 on the file of the learned 2<sup>nd</sup> Additional District Court, Tuticorin attaching the properties listed in the petition filed under Order 38 Rule 5 of the Civil Procedure Code.

2. The respondent has laid a suit in O.S.No.37 of 2022 for recovery of Rs.13,14,000/- (Rupees Thirteen Lakhs and Fourteen Thousand only) due on the promissory note alleged to have been executed by the appellant on 04.07.2019 in favour of the respondent.

3. It is not in dispute that the respondent has moved an application under Order 38 Rule 5 C.P.C., seeking attachment of the properties belonging to the appellant and the learned 2<sup>nd</sup> Additional District Judge vide order dated 22.04.2022, directed the appellant to furnish security and that since the appellant has not furnished security as directed by the Court, ordered attachment of the properties vide order dated 25.04.2022.

4. Aggrieved by the said order of attachment of the properties, the appellant/defendant has come forward with the present appeal.

<https://www.mhc.in.gov.in/judis>



5. When the appeal is taken up, the learned counsel for the appellant would submit that the appellant is ready to furnish the bank guarantee for a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) before the trial Court and also filed a Memo dated 13.09.2022 to that effect.

6. The learned counsel for the respondent would submit that the trial Court may be directed to raise the attachment, after receiving the bank guarantee furnished by the appellant.

7. Considering the above and also the submissions made by the learned counsel for the appellant as well as the respondent, the appellant is directed to furnish bank guarantee for Rs.15,00,000/- (Rupees Fifteen Lakhs only) before the trial Court within a period of two weeks from the date of receipt of a copy of this order and on the production of such bank guarantee, the trial Judge is directed to take necessary steps for raising the attachment.

8. With the above directions, this Civil Miscellaneous Appeal is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)

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To

1. The 2<sup>nd</sup> Additional District Judge,  
Tuticorin.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate ( SR-44630[F] dated 14/09/2022 )

+1 CC to M/s.B.RAJESH SARAVANAN, Advocate ( SR-44631[F] dated 14/09/2022 )

**C.M.A. (MD) No.677 of 2022**  
**and C.M.P. (MD) No.5855 of 2022**  
**14.09.2022**

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