



CRP(PD)(MD)No.1540 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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N.Shahul Hameed

... Petitioner

versus

M.Kamurudeen

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, seeking a direction to the Principal District Munsif, Tiruchirappalli to number IA D.No.797 of 2021 in O.S.No.321 of 1988.

For Petitioner : Mr.Raguvaran Gopalan

ORDER

This Civil Revision Petition is filed against the docket order dated 13.09.2021 made by the learned Principal District Munsif, Tiruchirappalli, returning the application in IA.Diary No.797 of 2021



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in O.S.No.321 of 1988.

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2. The petitioner herein is the defendant in O.S.No.321 of 1988. The said suit was filed by the plaintiff/respondent herein for recovery of money. Pending the suit, the plaintiff/respondent herein has filed an application in I.A.No.189 of 1988 under Order 38 Rule 5 C.P.C, seeking an order of attachment before the Judgment. The said interlocutory application was ordered and it was duly communicated to the Sub Registrar Office and encumbrance has been duly entered in the Register. The suit was subsequently dismissed as settled out of Court by the learned Principal District Munsif, Tiruchirappalli on 06.07.1988. The petitioner, at that point of time, did not take any step to release the order of attachment. Thereafter, when the petitioner attempted to sell the property, he found the order of attachment entered in the Register of Sub Registrar Office and therefore, he moved an application in I.A.Diary No.797 of 2021 and the same was returned by the trial Court that the schedule of property is not mentioned in the Document No.1-



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the suit register. Aggrieved over the same, the present Civil Revision
Petition is filed.

3. According to the petitioner, he has collected a certified copy of the communication from the Sub Registrar Office with regard to the attachment made to his properties.

4. The learned counsel appearing for the petitioner has also produced before this Court the certified copy of the communication sent by the trial Court to the Sub Registrar, Manapparai, with regard to the attachment order passed in I.A.No.189 of 1988 in O.S.No.322 of 1988. Unfortunately, in the said communication, the schedule of property is not mentioned.

5. The learned counsel appearing for the petitioner, by relying upon Rule 89 of Civil Rules of Practice, submits that on the disposal of the suit, a duty is also cast upon the Court to forthwith inform the



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Registrar Office about the disposal of the suit. However, in this case, neither the parties nor the Court have acted upon and therefore, the order of attachment still remains in the Register of the Sub Registrar Office.

6. The learned counsel appearing for the petitioner has also expressed certain difficulties that the petitioner is not having any other document, since the documents are old documents and the Suit Register and papers are not available with the counsel also. Therefore, the petitioner is not in a position to produce all relevant documents before the Court. At least, by numbering the application and ordering notice to the respondent, the petitioner can collect the remaining materials, if any and a decision can be taken on the order of attachment still continuing on the suit which has already been disposed of.

7. This Court is satisfied that a duty is cast upon the Court also to inform the concerned Sub Registrar Office to remove the order of



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attachment on the disposal of the suit. Admittedly, the suit in O.S.No. 321 of 1988 was dismissed as settled out of Court on 06.07.1988. The order of attachment was passed in I.A.No.189 of 1988 in O.S.No.321 of 1988.

8. Rule 89 of the Civil Rules of Practice is extracted hereunder:

“Where any instrument affecting immoveable property registered under the Indian Registration Act, 1908, is set aside discharged or cancelled by an order of decree of a Civil Court, the court shall forthwith cause a copy of the decree or order drawn up on plain paper to be forwarded to the registering office; provided where such order or decree is modified, set aside or reversed, copies of further orders or decree shall also be forwarded to the registering officer”.

9. In view of the same, the learned Principal District Munsif, Tiruchirappalli, is directed to number the application, proceed with the same and take a decision with the available materials.



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10. With the above direction, the Civil Revision Petition is disposed of. No costs.

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Index : Yes / No

Internet: Yes / No.

Note: The Registry is directed to return the original impugned order to the petitioner.

To

1. The Principal District Munsif,
Tiruchirappalli.



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B.PUGALENDHI, J.

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