



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.949 of 2018 &

CMP(MD)No.10249 of 2018

WEB COPY

A.Prabakaran

... Appellant/Petitioner/
3rd Party

vs.

1.N.Palanisamy

2.Krishnamoorthy

... Respondents/Respondents/
Plaintiff/Defendant

PRAYER : Civil Miscellaneous Appeal filed under Section 104(1)(i) r/w Order 21 Rule 58(4) of CPC to set aside the fair and decreetal order in EA.No.7/2017 in EP.No.9/2015 in OS.No.146/2010 on the file of the Principal District Court, Tirunelveli dated 01.08.2018.

For Appellant : Mr.Meenakshi Sundaram
Senior Counsel for Mr.N.GA.Natraj

For Respondents : Mrs.AL.Gandhimathi for R1

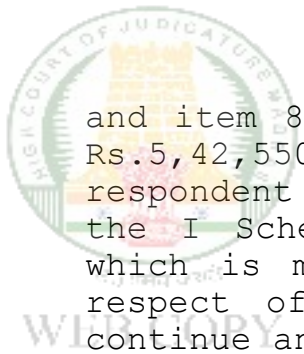
J U D G M E N T

The appellant has filed this appeal to set aside the fair and decreetal order in EA.No.7/2017 in EP.No.9/2015 in OS.No.146/2010 on the file of the Principal District Court, Tirunelveli dated 01.08.2018.

2. The appellant / petitioner filed EA.No.7/2017 under Order 21 Rule 58 of CPC and Section 151 of CPC to raise the order of attachment in EA.No.9/2015 dated 07.02.2011 on the ground that the decree amount is only Rs.18,69,750/- with costs of Rs.1,34,218.50/- totalling to Rs.20,03,968.50/- and EP.No.9/2015 was filed by the first respondent for attachment of I and II Schedule of properties, wherein the said properties are more valuable than the decree amount. The learned Principal District Judge, Tirunelveli had dismissed the EA. Aggrieved by the said dismissal order, the appellant / petitioner had filed this appeal.

3. Heard the learned counsel appearing on both sides.

4. The first respondent has filed a counter in EA stating that the property value is Rs.1,50,000/- per cent in the year 2015. Now seven years have lapsed and hence, the value of the property would have increased several times. In the year 2015, item 6 of the I Schedule property (6.86 cents) is worth about Rs.9,12,000/-, item 7 of the I Schedule property (3.98 cents) is worth about Rs.5,98,050/-



and item 8 of the I Schedule property (3.61 cents) is worth about Rs.5,42,550/-. Even as per the value admitted by the first respondent in the year 2015, the total worth of the items 6 to 8 of the I Schedule property would come to more than Rs.20,00,000/-, which is more than the decree amount. Hence, the attachment in respect of the items 6 to 8 of the I Schedule property shall continue and the attachment in respect of the items 1 to 5, 9 and 10 of the I Schedule property, and II Schedule property is hereby raised.

5. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mbi

To

The Principal District Court,
Tirunelveli.

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-259[F] dated 05/01/2022)

+1 CC to M/s.N.GA.NATRAJ, Advocate (SR-470[F] dated 05/01/2022)

CMA (MD) No.949 of 2018
04.01.2022

RK(01/02/2022) 2P 4C