



CRP (MD) No.2112 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.12.2022

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Saravanan

... Petitioner

Vs

1.L.Gajendran

2.P.Anusya

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.07.2021 in IA.No. Unnumbered IA.No. Of 2021 in IA.No.613 of 2018 in OS.No.401 of 2018 on the file of the Principal Sub Judge, Dindigul.

For Petitioner

: Mr.M.Parameshwari

ORDER

The petitioner is the 3rd party to the suit in OS.No.401 of 2018. He filed an application in I.A of 2021 in IA.No.613 of 2018 under Order 38 Rule 9 CPC to remove the attachment. The said application was returned by the trial Court that the description of the



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property does not match. Aggrieved over the same, the present civil revision petition is filed.

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2.The learned Counsel for the petitioner submits that the first respondent / plaintiff has filed the suit for recovery of money as against the second respondent before the Principal Sub Court, Dindigul in OS.No.401 of 2018 and also filed an application in IA.No.613 of 2018 under Order 38 Rule 5 of CPC for attachment of the property before the judgment and the said application was allowed. It appears that the suit was also decreed exparte. The petitioner claims that he has filed the above interlocutory application under Order 38 Rule 9 CPC to remove the attachment, but the court has simply returned the application that the property description does not match.

3.Numbering a plaint or an application is only a ministerial act. In the event the Court still feels that the application filed by the petitioner is not maintainable, the court can provide an opportunity to the petitioner as per the decision of this Court in



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S.Prameswari Vs Denis Lurdusamy reported in (2011) 5

CTC 742 and shall decide the application accordingly.

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4.The civil revision petition is disposed of
accordingly. No costs.

15.12.2022

dsk

To

The Principal Sub Judge,
Dindigul.



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B. PUGALENDHI, J.

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