



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (MD)No.227 of 2017

and

C.M.P (MD) No.1017 of 2017

WEB COPY

1.J.Sharmila John

2.John Fernando

... Petitioners/Respondents/Defendants

Vs.

G.Maria Anthony Selvi

... Respondent/Petitioner/Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in I.A.No.662 of 2016 in O.S.No.210 of 2016 dated 08.09.2016 on the file of the learned Subordinate Judge, Tuticorin and allow this civil revision petition.

For Petitioners

: Mr.R.Venkatesan

M/s.Right Law Associates

For Respondent

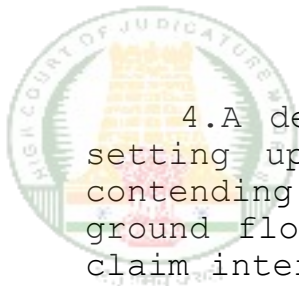
: Mr.N.Dilipkumar

ORDER

Challenging the order of attachment passed in I.A.No.662 of 2016 in O.S.No.210 of 2016 on the file of the Sub Court, Tuticorin, the defendants have invoked the jurisdiction of this Court under Article 227 of the Constitution of India, questioning the said order.

2.The respondent herein had filed the suit in O.S.No.210 of 2016 on the file of the Sub Court, Tuticorin, for recovery of a sum of Rs.6,50,000/- together with interest at 9 % on the said sum from the date of the suit till the date of realization. Along with the suit, the respondent had filed IA No.662 of 2016 for an order of attachment before judgment, failing which direct the petitioner herein to furnish the security to the tune of suit claim.

3.In the affidavit filed in support of the said application, the respondent herein had stated that the petition schedule property belongs to the second petitioner, who is also liable to pay the respondent/plaintiff and in order to deprive the respondent herein from enjoying the fruits of the decree, they are taking steps to alienate the suit schedule property. Therefore, the respondent had sought for direction to the revision petitioner to furnish security, failing which, order of attachment before the judgement of the property in question.



4.A detailed counter has been filed by the petitioners herein setting up a counter claim of a sum of Rs.2,00,000/- and also contending that the respondent/plaintiff is in possession of the ground floor of the premises and therefore, he is not entitled to claim interest on the loan amount.

5.The learned Subordinate Judge, Tuticorin, by order dated 08.09.2016 had ordered attachment.

6.It is informed by the learned counsel for the respondent that the attachment order has also been effected. Therefore, without setting aside the order in IA No.662 of 2016 and taking note of the fact that the attachment order has been effected, this Civil Revision Petition is disposed of with a direction to the learned Subordinate Judge, Tuticorin, to dispose of O.S.No.210 of 2016 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

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:-

The Subordinate Judge,
Tuticorin.

+1 CC to M/s.RIGHT LAW ASSOCIATES, Advocate (SR-855[F] dated 07/01/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-1046[F] dated 10/01/2022)

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