



CRP No.543 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

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L.Balaraman (Deceased)(Rep by his Legal heirs petitioners 1 to 4)

1.B.Babu

2.L.B.Venkatesan

3.L.B.Balakumar

4.P.B.Kalpana

.... Petitioners

-Vs-

1.Hitesh Malhotra,

...1st Respondent/plaintiff

2.The Sub Registrar,

Purasawalkam Sub Registration Office.

... 2nd Respondent/2nd Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, to set aside the order passed in I.A .Sr. No.85802 of 2022, in I.A O.7148 of 2018 in O.S No. 2833 of 2018 dated 06.01.2023, on the file of the IV Assistant City Civil court, Chennai and allow the civil revision petition and thereby raise the attachment order.

For Petitioners : Mr.M.Sunil Kumar

For Respondents : Mr.Srikanth



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ORDER

This Civil Revision petition has been filed to set aside the order passed in I.A .Sr. No.85802 of 2022, in I.A No.7148 of 2018 in O.S No. 2833 of 2018 dated 06.01.2023, on the file of the IV Assistant City Civil court, Chennai and allow the civil revision petition and thereby raise the attachment order.

2.Both side counsels appeared before this Court stated that petitioners are legal heirs of deceased L.Balaraman/defendant in the suit O.S No. 2833 of 2018 filed by the plaintiff for recovery of money. During the pendency of proceedings the matter was settled out of Court among the parties. But while pending suit the property of the petitioners was attached before the Trial Court. Now, the matter was settled the petitioners filed application under Order 38 rule (6) (2) and Order 38 Rule 9 to raise the attachments before the Trial Court. But the Trial Court dismissed the petition stating that petition could not be entertained and also directed the petitioners to approach the appropriate Court. Challenging the said order the petitioners filed this Civil petition.



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3. Admittedly, as on date, there is no E.P pending before the Court below between the parties. Further, before filing execution petition the matter was settled out of Court. Therefore there is no necessity arose for the plaintiff to file E.P, and also the Trial Court is empowered to entertain said petition to raise attachment but erroneously dismissed the petition. Further the respondent also has no objection to raise attachment in respect of suit properties. Hence the order passed by the Trial Court in I.A S.R. No.85802 of 2022 in I.A No.7148 of 2018 in O.S No.2833 of 2018 is hereby set aside. Thus, I.A Sr.No.85802 of 2022 is allowed and order of attachment is raised. Further, the Registry is directed to send this copy of this order to the Sub-Registrar, Sub Registration Office, Purasawalkam.

4. Accordingly this Civil Revision Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

13.03.2023

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy on 23.03.2023.



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