



C.R.P. No. 3209 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3209 of 2023

Veerasamy

...Petitioner

.Vs.

A. Maadhu

...Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed by the learned Principal District Judge, Dharmapuri in I.A.No.3 of 2023 in O.S.No.55 of 2023 dated 26.07.2023 and pass orders.

For Petitioner : Mr. S. Arokia Mani Raj

ORDER

This petition is filed to set aside the order passed by the learned Principal District Judge, Dharmapuri in I.A.No.3 of 2023 in O.S.No.55 of 2023 dated 26.07.2023.



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2. The case of the petitioner is that the petitioner has filed a petition under Order 38, Rule 5 and Section 151 of C.P.C seeking an order to direct the respondent to furnish security for the suit claim failing which order for attachment of the property mentioned in the schedule and the same was dismissed vide order dated 26.07.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the learned Judge failed to consider the vital fact that the respondent was called absent and set ex-parte while disposing the I.A. Furthermore the respondent was making attempts to sell the property to third parties and the said factum was not considered while dismissing the I.A. He further submitted that this Court while passing order in an identical facts of the case in C.R.P(MD).No. 396 of 2021 has allowed the petition on 08.03.2021. Hence prays to allow this petition.

4. Before adverting further it would be relevant to go through the order passed by this Court in C.R.P(MD).No. 396 of 2021, wherein the prayer sought for by the petitioner is to number the unnumbered



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plaint and this Court has allowed the C.R.P with a direction to number the petition, whereas the prayer sought for in this case is against an I.A. order. Hence, the order relied by the learned counsel for the petitioner is not applicable to the present facts of the case.

5. On a perusal of records it is seen that the Respondent is the owner of the subject property and he has entered into an sale agreement in favour of the petitioner for a sale consideration of Rs.10,10,000/-. Thereafter, the respondent has not come forward either to register the sale agreement or to refund the amount. Hence the petitioner filed the O.S.No.55 of 2023 before the learned Principal District Judge, Dharmapuri and when the same was pending the respondent is making attempt to sell the subject property. Hence the petitioner has filed the I.A.No.3 of 2023 in O.S.No.55 of 2023 seeking a direction to the respondents to furnish security for the suit claim failing which order for attachment of the property mentioned in the schedule and the same was dismissed vide order dated 26.07.2023, wherein the learned Judge has made an observation that the petitioner to substantiate his claim has not furnished sufficient details and simply stating that the respondent is seriously trying to alienate the property to some third parties. The details



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about the alleged attempt to sell the property has not been stated. Further more the sale agreement was executed on 20.07.2011 and the suit was filed in the year 2023 i.e after a lapse of almost 10 years. The said finding of the learned Judge cannot be brushed aside easily. Therefore, there is no necessity to interfere with the impugned order passed by the Court below.

6. In view of the above, the order passed by the learned Principal District Judge, Dharmapuri in I.A.No.3 of 2023 in O.S.No.55 of 2023 dated 26.07.2023 is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs.

05.09.2023

smn

Index : Yes/No

Internet: Yes/No

To.

The Principal District Judge, Dharmapuri



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V.BHAVANI SUBBAROYAN,J.
Smn

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