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CMA.No.3007 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.3007 of 2023
& CMP.No.28513 of 2023

Ponnusamy

... Appellant

-Vs-

Periasamy

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Order 43 Rule 1(q) CPC, against the fair order passed in I.A.No.3/2023 in O.S.No.179 of 2023 dated 28.08.2023 on the file of Hon'ble 1st Addl. District Court, Namakkal.

For Appellant : Mr.R.Narayanan
For Respondent : Mr.J.Kamaraj

JUDGMENT

The defendant in O.S.No.179 of 2023, challenges an order of interim attachment passed under Order 38 Rule 6 CPC in a suit for recovery of money.



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2.The learned counsel for the appellant/defendant submitted that the defendant challenges the impugned order on the ground that the Trial Court has not adequately bestowed care to ascertain that the conditions stipulated for attaching the property of the defendant after Judgment are complied.

3.The learned counsel added that without prejudice to his contentions raised herein, the defendant/appellant would undertake not to alienate the property attached till the disposal of the suit.

4.The said statement of the learned counsel for the appellant is recorded but, with a clarification.

5.The defendant/appellant is now required to appear before the trial Court Viz., the 1st Additional District Court, Namakkal with an affidavit to the effect that he will not alienate the property without the leave of the Court.



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6.On receipt of the said affidavit, the trial Court may vacate the order of interim attachment. The Trial Court is also required to dispose of the suit in O.S.No.179 of 2023, as expeditiously as possible, since it is laid only for realization of money.

7.The Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

22.12.2023

Tsg

To

- 1.The 1st Addl. District Court, Namakkal.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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