



C.R.P.No.4935 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.4935 of 2023 &
C.M.P.No.29024 of 2023

Tamilmani

... Petitioner

Vs.

Nagarkani

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order and decreetal order in I.A.No.2 of 2023 in O.S.No.62 of 2023 on the file of the Principal District Court, Villupuram dated 07.09.2023.

For Petitioner

: Mrs.R.Poornima

ORDER

Challenging the order dated 07.09.2023 passed in I.A.No.2 of 2023 in O.S.No.62 of 2023 on the file of the Principal District Court, Villupuram, the plaintiff preferred the present revision.

2. Originally the suit in O.S.No.62 of 2023 has been filed by the



C.R.P.No.4935 of 2023

petitioner/plaintiff for recovery of money. Pending the suit, the petitioner/plaintiff filed I.A.No.2 of 2023 under Order 38 Rule 5 & Section 151 of CPC to direct the respondent/defendant to furnish security to the tune of Rs.25,66,883/- failing which to attach the petition mentioned property. The trial court dismissed the application holding that the respondent/defendant shall give an affidavit of undertaking stating that he will not alienate the property.

3. Learned counsel for the petitioner would submit that the trial court ought to have appreciated the amount involved in the suit and should have ordered for furnishing security as the amount involved is huge and the respondent is attempting to dispose of the property which he owns. He would also submit that though the respondent was directed to give undertaking before the court stating not to alienate the property, till date, no such undertaking was given by him. Therefore, the petitioner would pray for setting aside the order passed by the trial court in I.A.No.2 of 2023.

4. Heard the learned counsel for the petitioner and perused the materials available on record.



C.R.P.No.4935 of 2023

WEB COPY

5. The trial court ought to have directed the respondent/defendant to furnish security, failing which the property has to be attached. Instead the trial court relying upon the undertaking of affidavit has dismissed the application which is not permissible under law.

6. For the foregoing reasons, the finding of the trial court is set aside and I.A.No.2 of 2023 is reopened and the trial court is ordered to direct the respondent/defendant to furnish the security, failing which, shall pass appropriate orders as per the manner known to law. Accordingly, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

nl

Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations : Yes/No



WEB COPY



C.R.P.No.4935 of 2023

To

1.The Principal District Court, Villupuram



WEB COPY



C.R.P.No.4935 of 2023

T.V.THAMILSELVI,J.

nl

C.R.P.No.4935 of 2023

21.12.2023