



C.M.A(MD)No.1334 of 2010

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1334 of 2010

P.G.Seshadri

... Appellant/Respondent/
1st Defendant

Vs.

Baskaran

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Miscellaneous Appeal is filed under Order 43 Rule 1 (u) of Code of Civil Procedure, to set aside the order passed in I.A.No. 208 of 2010 in O.S.No.75 of 2010, dated 30.04.2010 on the file of the learned I Additional District Court, Madurai.

For Appellant : Mr.O.Sivakumar

For Respondent : Mr.V.Nagendran

JUDGMENT

The present appeal has been filed by the 1st defendant in O.S.No. 75 of 2010 challenging an order of attachment passed by the trial Court in I.A.No.208 of 2010.



C.M.A(MD)No.1334 of 2010

2. The respondent herein had filed O.S.No.75 of 2010 for recovery of a sum of Rs.9,00,000/- based upon a pro-note, dated 10.11.2007 said to have been executed jointly by the defendants 1 and 2. Pending suit, the plaintiff had filed I.A.No.208 of 2010 to attach the properties contending that the defendants are attempting to alienate the immovable property and he would not be able to enjoy the fruits of the decree.

3. The defendants had filed a counter disputing the receipt of a loan amount. The defendants have further contended that the plaintiff had used some unfilled pro-notes containing the signature of the defendants which were misplaced recently in a hand bag. In Paragraph No.8 of the counter, the defendants have further given an undertaking that they will not alienate or encumber the property.

4. The trial Court after considering the submissions on either side, passed an order attaching the property. This order is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant, the property is already mortgaged to LIC housing development corporation and the title deed has also been deposited with the said creditor. Therefore, the question of attachment would not arise at this



C.M.A(MD)No.1334 of 2010

stage. Apart from the said contention, they have also contended that they are not liable to pay any amount to the plaintiff and the pro-notes have been forged by the plaintiff.

6. Heard the learned counsel appearing for the appellants and respondents.

7. A perusal of the records indicate that the order of interim attachment is in force for the past 13 years. By an order of this Court, the records have been called for from the trial Court. Therefore, the trial has also not proceeded with. In the above said circumstances, this Court finds that the order of attachment shall continue till 31.12.2023. The trial Court is directed to dispose of the suit on or before 31.12.2023. The time schedule fixed by this Court shall be strictly adhered to.

8. With the above said observations, this Civil Miscellaneous Appeal stands dismissed. No costs.

19.06.2023

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

<https://www.mhc.tn.gov.in/direct>



C.M.A(MD)No.1334 of 2010

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Note : Registry is directed to return all the original records to the trial Court, namely II Additional Sub Court, Madurai.

To

- 1.The I Additional District Court,
Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.1334 of 2010

R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.1334 of 2010

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