



CRP(MD).NO.359 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.359 of 2023

and

M.P(MD).No.1730 of 2023

V.Kumaresan

... Petitioner/Petitioner/Plaintiff

Vs.

S.Sureshkumar

... Respondent/Respondent/Defendant

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.1 of 2021 in O.S.No.62 of 2021 dated 01.06.2022 on the file of the Additional District Court, Srivilliputhur.

For Petitioner : Mr.R.Esakki Raja

ORDER

The present civil revision petition has been filed by the plaintiff challenging an order passed by the learned trial Judge dismissing an application under Order 38 Rule 5 of the Code of Civil Procedure. The plaintiff/revision petitioner had filed a suit for recovery of money based upon a pro-note dated 01.12.2018. Pending the suit, the



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plaintiff had filed I.A.No.1 of 2021 for the relief of attachment before the judgment of certain properties of the defendant. The said application has been dismissed by the trial Court on the ground that no revenue records or title deeds or encumbrance certificate has been produced on the side of the plaintiff to establish that the property belonged to the defendant. The said order is under challenge in the present revision petition.

2. I carefully considered the submissions made on the side of the petitioner and perused the affidavit and the order passed by the learned trial Judge.

3. A perusal of the order impugned in the revision petition will clearly disclose that the petitioner has not enclosed any document to establish that the defendant is the owner of the property, which is sought to be attached. Therefore, I do not find any illegality or irregularity in the order passed by the trial Court. However, the plaintiff/revision petitioner is at liberty to file a fresh application under Order 38 Rule 5 of the Code of Civil Procedure enclosing all the relevant documents to establish the title of the defendant for the property for which the attachment is sought for.



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4. With the aforesaid observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

14.02.2023

Index : Yes / No
Internet : Yes / No
Rmk

To

1. The Additional District Judge, Srivilliputhur.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
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