



C.M.A.(MD)No.317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.317 of 2023

and

C.M.P.(MD)No.3957 of 2023

A.Mohandoss

...Appellant / Respondent / Defendant

Vs.

P.Selvam

...Respondent / Petitioner / Plaintiff

PRAYER: This Civil Miscellaneous Appeal is filed under Order 43 Rule 2 (q) of the Civil Procedure Code, to call for the records relating to the fair and decreetal order, dated 16.11.2022 passed in I.A.No.1 of 2021 in O.S.No.314 of 2021 on the file of the learned Additional District Judge, Dindigul and set aside the same by allowing this civil miscellaneous appeal.

For Appellant : Mr.S.Sarvagan Prabhu

JUDGMENT

The order of the learned Additional District Judge, Dindigul, dated 16.11.2022 made in I.A.No.1 of 2021 in O.S.No.314 of 2021, ordering an attachment, before disposal of the suit, over the petition mentioned properties, is under challenge in this Civil Miscellaneous Appeal.



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2.The learned counsel appearing on behalf of the appellant submitted that though the suit has been filed in the year 2021, the property in question has already been sold on 17.12.2021, which is after the institution of the suit. Thereafter, the purchaser once again transferred the property on 10.02.2022. Hence, the order of attachment, which is impugned herein, came to be passed after the sale of the property. Now, the purchaser of the property has also lodged a criminal complaint against the appellant.

3.The learned counsel for the appellant would submit that he will advise the appellant to deposit the entire promissory amount ie., Rs.10 lakhs before the trial Court.

4.In such view of the matter, the appellant is directed to deposit a sum of Rs.10 lakhs to the credit of O.S.No.314 of 2021 on the file of the learned Additional District Judge, Dindigul, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the order of attachment shall stand vacated. It is made clear that if the amount is not deposited within the time granted by this Court, the attachment shall remain in force. The trial Court is



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directed to deposit amount to be deposited by the appellant in any of the interest bearing account till the disposal of the suit. It is also made clear that since the deposit is made only pursuant to the present order, the trial Court shall proceed with the trial and decide the suit on its own merits and in accordance with law.

5.With the above observation, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

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

1.The Additional District Judge, Dindigul.

2.The Section Officer,

Vernacular Records,

Madurai Bench of Madras High Court,

Madurai.



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N.SATHISH KUMAR, J.

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