



C.R.P.(MD).No.2255 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.2255 of 2018

and

C.M.P(MD) No.10125 of 2018

P.Baskaran

... Petitioner/Plaintiff/Plaintiff

-vs-

1. Premalatha

... 1st Respondent/Defendant/
Defendant

2. D.Saravanan

... 2nd Respondent/Petitioner/
3rd Party

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 30.08.2018 made in E.A.No.33 of 2018 in O.S.No.115 of 2017 on the file of the District Munsif Court, Thuraiyur.

For Petitioner : Mr.N.Mohan

For Respondents :Mr.D.Shanmugaraja Sethupathy
for – R2

: No appearance – for R1



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ORDER

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The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the order dated 30.08.2018 made in E.A.No.33 of 2018 in O.S.No.115 of 2017 on the file of the District Munsif Court, Thuraiyur.

2. The petitioner herein is the plaintiff before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. It appears that the plaintiff has filed a suit against the defendant viz., Premalatha in O.S.No.115 of 2017. When the suit was pending, it appears that the petition mentioned property in E.A.No.33 of 2018 was attached before judgment. It appears that, subsequently, on dismissal of the Original Suit, the petitioner herein has preferred an appeal in A.S.No.37 of 2017, in which, a Lok Adalat award was passed on 10.02.2018.



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5. According to the petitioner herein, after the settlement of the appeal before the Lok Adalat on 10.02.2018, the 3rd party, one Saravanan who is the 2nd respondent herein, has filed an application to raise the attachment.

6. It appears that on 30.08.2018, the Court below has passed the following order:

“Heard. Notice dispensed with. On perusal of the petition and supporting affidavit, it reveals that sufficient reasons are stated to raise the attachment. Hence, this petition deserves to be allowed.

In the result, this petition is allowed and batta for raising attachment by 20.09.2019.”

7. It is the submission of the learned counsel for the petitioner that without issuing any notice, attachment was raised. Therefore, he prayed to interfere with the said order by allowing this petition.

8. Despite the name of the first respondent is printed in the cause list, no one appeared on behalf of her.



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9. The learned counsel appearing for the second respondent would vehemently submit that the present petitioner is a henchman of the defendant and the suit was collusive suit between the plaintiff and the defendant and only to hood wink the second respondent, they filed this make belief suit and has attached the respondent property. Therefore, there is no merit in this petition.

10. This Court has given anxious consideration to the submissions of the learned counsel for the petitioner and the learned counsel for the second respondent.

11. The sum and substance of the argument of the learned counsel for the petitioner is that, no notice was given to him. Even as per the order, as extracted hereinabove, notice to the plaintiff as well as the defendant was dispensed with, and furthermore, the order does not speak about the reasons as to how he has arrived at such conclusion.

12. Therefore, this Court deems it appropriate to set aside the order dated 30.08.2018. However, in the interest of justice, this Court remits back



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this matter to the Court below and the Court below is directed to issue notice to the respondents and dispose of the matter according to law after passing the reasoned order. The Court below is expected to dispose of the suit in O.S.No.115 of 2017 within a period of three months from the date of receipt of the copy of this order.

13. In the result, this Civil Revision Petition is **disposed of**. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

07.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif Court,
Thuraiyur.



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C.KUMARAPPAN,J.

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