



WEB COPY



C.R.P.No.1385 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE R. SAKTHIVEL

C.R.P.No.1385 of 2023

and

C.M.P.No.9275 of 2023

E.Thirumurthy

... Petitioner

Versus

T.Valarmathi

... Respondent

PRAYER: Civil Revision Petitioner filed under Article 227 of the Constitution of India, praying to set aside the Order dated October 1, 2021 passed in I.A.No.3 of 2021 in O.S.No.160 of 2021 on the file of Special Judge for Cases under SC/ST (POA) Act, Namakkal.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.P.Navaneetha Krishnan

ORDER



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This Civil Revision Petition is directed against Order dated October 1, 2021 passed in I.A.No.3 of 2021 in O.S.No.160 of 2021 on the file of Special Judge for Cases under SC/ST (POA) Act, Namakkal [hereinafter 'Trial Court' for brevity].

2. The revision petitioner herein is the plaintiff and the respondent herein is the defendant before the Trial Court. The revision petitioner filed the Suit against the respondent herein in O.S.No. 160 of 2021 on the file of the Trial Court seeking Money Decree for Rs.11,22,000/- and subsequent interest on principal sum of Rs.8,50,000/- with cost. The said Suit was filed based on a promissory note dated November 10, 2018. The revision petitioner/plaintiff filed an Interlocutory Application in I.A.No. 3 of 2021 under Order 38, Rule (5) of the Code of Civil Procedure, 1908 seeking an Order of attachment of properties described in the petition. The respondent/defendant entered appearance through an Advocate and filed her counter stating that she denied the averments made in the petition. Further, she undertook not to make any alienation or encumbrance in respect of the properties sought to be attached. Recording the undertaking given by the



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respondent/defendant, Trial Court dismissed the I.A.No. 3 of 2021 vide Order dated October 1, 2021. Aggrieved, the revision petitioner/plaintiff before this Court.

3. Heard Mr.S.Saravanakumar, learned Counsel for the revision petitioner and Mr.P.Navaneetha Krishnan, learned Counsel for the respondent.

4. The learned Counsel for the revision petitioner submits that the respondent is a woman, and if she alienates the petition mentioned properties, the revision petitioner may not be in a position to execute the Decree that may be passed in the main Suit. Further submits that mere undertaking not to alienate or encumber the properties sought to be attached would not be sufficient to safeguard the interest of the revision petitioner. Accordingly, he prays to allow the Civil Revision Petition and Order to allow the I.A.No. 3 of 2021.

5. In response to the above arguments, the learned Counsel for the



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respondent submits that the Suit in O.S.No.160 of 2021 was directed to be posted on 02.12.2024 for Trial and the respondent has no intention to encumber or alienate the petition mentioned properties. Further submits that the respondent will not alienate or encumber the properties against her undertaking, the respondent/defendant is ready to face the Trial and co-operate for early disposal. Accordingly, he prays to dismiss the Civil Revision Petition.

6. In view of the above submissions made by either side and considering the nature of the petition, this Court is inclined to direct the Trial Court to dispose of the Suit in O.S.No.160 of 2021 as early as possible, preferably, within three months from the date of receipt of a copy of this Order. Both the revision petitioner and the respondent are directed to co-operate with the Trial Court for early disposal.

7. With the above observations, this Civil Revision Petition is **disposed of.** No costs. Consequently, connected Civil Miscellaneous Petition is closed.



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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Special Court for Cases
under SC/ST (POA) Act, Namakkal.

R.SAKTHIVEL,J

rna/MSM



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