



CRP.No.2781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

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T.V.Madhavan

... Petitioner/Respondent/Defendant

Vs

P.V.Vijayaganesah

....Respondent / Petitioner / Plaintiff

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the decretal order passed by the learned Additional District Judge (FTC), Vellore, Vellore District in I.A.No.22/2019 in O.S.No.160/2018 dated 04.4.2022 on the file of the Additional District Court (FTC), Vellore District.

For Petitioner : Mr.D.Ananth
for Mr.D.Rajagopal

For Respondent : Ms.A.Subbulakshmi
for Mr.S.Vijayakumar



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ORDER

The civil revision petitioner is the defendant in O.S.No.160/2018, which has been laid by the respondent/plaintiff before the Additional District Court (FTC), Vellore, on the foot of a promissory note for recovery of a sum of Rs.9,50,000/-. Along with the suit, the plaintiff has taken out an application in I.A.No.55/2018 seeking attachment. Pending the proceedings, as the defendant had remained exparte, this application was withdrawn. Thereafter, the defendant entered appearance and filed an application to set aside the exparte order. The exparte order was set aside and consequently, an application in I.A.No.22/2019 was filed by the plaintiff seeking attachment of the immovable property, in default of the petitioner/defendant furnishing security for the suit claim. The defendant was not resisting the application from 02.11.2019 to 22.01.2020, therefore, the application was allowed. It was only on 30.09.2021, the property was finally attached.

2. In order to set aside the order of attachment passed in I.A.No.22/2019, the defendant/revision petitioner has presented an



application in I.A.No.93/2019. The learned District Judge after recording the fact that the defendant had been prolonging the litigation from 2018 till 2021, decided that there were no merits in his application. However, in order to give an opportunity to the defendant / revision petitioner, she directed the defendant to deposit 1/3rd of the suit claim for the purpose of raising the attachment. It is this order that is under challenge.

3. Heard Mr. D.Ananth for Mr.D.Rajagopal, learned counsel for the revision petitioner and Ms.A.Subbulakshmi for Mr.S.Vijayakumar, learned counsel for the respondent.

4. A perusal of the impugned order shows that the defendant/civil revision petitioner has moved this application without furnishing any security, though a direction had been given by the District Judge to furnish a security for the said amount. The furnish security application had been kept pending for enquiry from 02.11.2019 to 22.01.2020. Even on 22.01.2020, the defendant was not present and consequently he was set exparte and that application stood allowed. Thereafter, the property was attached on 30.09.2021. It is only then this Rip Van Winkle from Vellore woke from



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slumber and moved an application to set aside the exparte order of attachment. No reasons have been given in the affidavit other than the one stating that the promissory note is a fabricated one. The Court below has been charitable enough to grant an order allowing his application, on condition that the petitioner deposits 1/3rd of the decretal amount to avoid the order of attachment. The learned trial Judge has extended her jurisdiction for the purpose of balancing the interest between the parties.

5. To conclude, I am not in agreement with the submissions of the learned counsel for the revision petitioner and I do not find any reason to interfere with the order of the learned District Judge dated 04.04.2022 in I.A.No.22/2019 in O.S. No.160/2018. Accordingly, the civil revision petition stands dismissed. No costs.

02.04.2024

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
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To
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- 1.The Additional District Judge (FTC)
Vellore.
- 2.The Section Officer
VR Section
High Court, Madras.



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V.LAKSHMINARAYANAN,J.

ds

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