



C.R.P.(MD)No.2244 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2244 of 2024
and
C.M.P.(MD)No.12703 of 2024

Sasikumar

... Petitioner / Appellant /
Respondent / Defendant

Vs.

N.S.Dhayalan

... Respondent / Respondent /
Petitioner / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 26.06.2024 passed by the Principal District and Sessions Court, Theni in filing No.CMA/463/2024 dated 26.06.2024 against I.A.No.1 of 2023 in O.S.No.198 of 2023 on the file of the Subordinate Court at Periyakulam and number the same.

For Petitioner : Mr.J.Milton Arul Rajendran



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ORDER

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The defendant in O.S.No.198 of 2023 on the file of the Sub Court, Periyakulam is the revision petitioner herein.

2. The plaintiff filed I.A.No.1 of 2023 under Order XLIII Rule 1 of C.P.C. Invoking the power under Rule 5, the trial court had directed the revision petitioner herein to furnish security. It was made clear that in the event of the petitioner failing security, attachment will be ordered. Questioning the same, the petitioner herein filed CMA before the Principal District Court, Theni. The appellate Court declined to number the CMA on the ground that the order impugned in the CMA is not appealable. Challenging the said return made by the first appellate Court, this civil revision petition has been filed.

3. Order XLIII Rule 1(u) of C.P.C reads that an appeal would lie from the decree of the appellate court.

4. In the case on hand, what has been passed is an order under Order XLIII Rule 1 of C.P.C. Therefore, it is not an appealable order. The appellate Court was justified in declining to number the appeal. It is open to the petitioner herein to avail remedy of revision.



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5. With the aforesaid observation, the civil revision petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

20.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The Principal District and Sessions Court, Theni.



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G.R.SWAMINATHAN, J.

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