



C.R.P(MD)Nos.2528 of 2024 & 2417 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)Nos.2528 of 2024 & 2417 of 2023

and

C.M.P(MD)Nos.14555 of 2024 & 12520 of 2023

C.R.P(MD)No.2528 of 2024:

1.K.Mohamed Esha

2.Abuthakir

... Petitioners /
Petitioners /
Proposed Defendants 4 & 5

Vs.

1.C.Karthikeyan

... Respondent /
1st Respondent /
Plaintiff

2.K. Vijayarani

3.K.Prabhakaran

4.K.Sarmela

... Respondents /
Respondents 2 to 4/
Defendants 1 to 3

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C.R.P(MD)Nos.2528 of 2024 & 2417 of 2023

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 10.08.2024 passed in I.A.No.2 of 2023 in O.S.No.77 of 2018 by the learned Sub Judge, Kovilpatti.

For Petitioners : Mr.B.Muneeswaran

For Respondents : Mr.A.Srinivasan for R.1

C.R.P(MD)No.2417 of 2023:

1.K.Mohamed Esha

2.Abutakir

... Petitioners /
Petitioners /
Petitioners /
3rd Parties

Vs.

1.C.Karthikeyan

... Respondent /
Respondent /
Petitioner /
Plaintiff

2.K. Vijayarani

3.K.Prabhakaran



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4.K.Sarmela
(R.2 to R.4 given up)

... Respondents /
Respondents 2 to 4/
Defendants 1 to 3

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 07.06.2023 passed in I.A.No.1 of 2023 in I.A.No.290 of 2018 in O.S.No. 77 of 2018 by the learned Sub Judge, Kovilpatti.

For Petitioners : Mr.B.Muneeswaran

For Respondents : Mr.A.Srinivasan for R.1

COMMON ORDER

Heard both sides.

2.One Karthikeyan is said to have granted loan to Krishnakumar on 15.10.2017. Krishnakumar passed away on 26.04.2018. Krishnakumar filed O.S.No.77 of 2018 before the Sub Court, Kovilpatti for recovery of money from the legal heirs of Krishnakumar on 13.06.2018. The plaintiff also filed I.A.No.290 of 2018 for attachment of the property. Notice was ordered calling upon the defendants to furnish security. The defendants filed counter as if they do not propose to sell or encumber the property.

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3.Enquiry in the Interlocutory Application was adjourned.

Attachment was made on 06.12.2018. But before that on 25.09.2018 the revision petitioners herein have purchased the suit property from the defendants from the suit.

4.The purchasers thereafter filed I.A.No.77 of 2018 for getting themselves impleaded in the suit. They also filed I.A.No.23 for raising the attachment. Both the IAs were dismissed. Challenging the same, these Civil Revision Petitions came to be filed.

5.The order made in I.A.No.2 of 2023 deserves to be sustained because in the money suit the revision petitioners are not necessary or proper parties. CRP(MD)No.2528 of 2024 is dismissed.

6.However, there is merit in the contentions of the learned counsel for the revision petitioners that the revision petitioners are bona fide or innocent purchasers for valuable consideration and that therefore they are entitled to maintain the I.A.No.1 of 2023 for raising of attachment.

7.The Court below had taken into account the conduct of the defendants alone and dismissed the IA for raising the attachments. This



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may not be the correct approach. The Court below will have to see whether the revision petitioners have to suffer for the conduct of the original defendants.

8.I am of the view that I.A.No.1 of 2023 has not been properly considered. In this view of the matter, order dated 07.06.2023 is set aside. The matter is remitted to the file of the Sub Court, Kovilpatti to give a disposal on merits and in accordance with law to the IA filed by the revision petitioner to raising of attachment. The Court below is directed to dispose of the main suit within three months from the next hearing date. The contentions of both the parties are left open.

9.CRP(MD)No.2417 of 2023 is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

MGA

To

The Sub Judge,
Kovilpatti.

C.R.P(MD)Nos.2528 of 2024 & 2417 of 2023
and
C.M.P(MD)Nos.14555 of 2024 & 12520 of 2023

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