



WEB COPY

CRP No. 1739 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-06-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 1739 of 2025

RADHAKRISHNAN

Petitioner(s)

Vs

VENKATESAN

Respondent(s)

This petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.12.2024 passed in IA.No. 288 of 2018 in OS.No. 336 of 2018 on the file of the Additional Sub Court, Vridhachalam.

For Petitioner(s): Mrs.R. Meenal

For Respondent(s): M/s.C.Munusamy

ORDER

The plaintiff in a suit for recovery of money from the defendant, is the revision petitioner. The plaintiff has taken out an interlocutory application in IA. No.288 of 2018 under Order 38 Rule 7 of C.P.C. R/w Section 151 of the Code of Civil Procedure Code (C.P.C.) seeking attachment of the property of the



respondent, which is morefully set out in the petition to the application under Order 38 Rule 5 of C.P.C.

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2. The respondent filed a counter stating that he is an agriculturist and he is keeping his agricultural equipments in the said property. The trial Court has proceeded to dismiss the application finding that the respondent has already executed a mortgage deed in favour of the plaintiff and therefore, the interest of the plaintiff is secured. However, while disposing the said application, the trial Court has also held that the plaintiff has not denied the fact that the defendant is an agriculturist and therefore, under Section 60(i)(c) of C.P.C., the properties of the respondent/defendant cannot be attached.

3. Mrs.Meenal, learned counsel for the petitioner would submit that the plaintiff is willing to accept the final decision of the trial Court, however, he is prejudiced and aggrieved by the findings rendered by the trial Court that under Section 60(i)(c) of C.P.C., there is a legal bar for the plaintiff to attach the properties of the respondent/defendant. She would further submit that it is not even the contention actually raised by the respondent/defendant in the counter affidavit and it is a matter which can be adjudicated only during the execution proceedings, post decree granted by the trial Court, if any.

4. Mr.C.Munusamy, learned counsel for the respondent would submit that there is no infirmity in the order passed and the issue of whether the properties



of the respondent/defendant are available for execution or there is a bar in the provisions under C.P.C., should be left open to be decided at appropriate time.

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5. In view of the above, confirming the order of the trial Court, dismissing IA No.288 of 2018, finding referred at para no.7, 6th line onwards (4th sentence), is set aside. However, it is open to the parties to canvass their respective contentions regarding permissibility of the attachment of the properties of the respondent, at the time of execution.

6. In the result, the civil revision petition is partly allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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