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CRP No.1960 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.B.BALAJI

C.R.P.No.1960 of 2024 and CMP No.10365 of 2024

K.M.Noushed ... Petitioner

vs.

S.Chandramohan ... Respondent

This petition has been filed under Article 227 of the Constitution of India against the order dated 06.03.2024 passed by III Additional District Judge, Coimbatore in I.A.No.2 of 2023 in O.S.No.927 of 2023 .

For Petitioner : Mr.S.Mukunth
Senior Counsel
For Mr.R.Subramanian

For Respondent : Mr.R.Nandakumar

ORDER

The revision has been filed challenging the order passed in I.A.No.2 of 2023, an application filed under Order 38 Rule 5 of Civil Procedure Code seeking attachment before judgment.



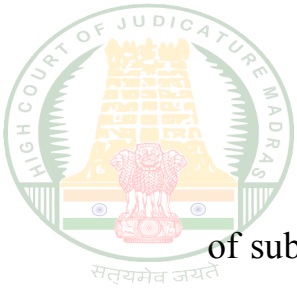
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2. In the said application, two items of property have been set out and the trial Court has allowed the application, creating a charge over $\frac{1}{2}$ share of the respondent, who is the revision petitioner herein, in item No.1 as security for the suit claim invoking Section 94(e) of the Civil Procedure Code. Though attachment was also sought for, in respect of item No.2, the trial Court has not passed any orders. However, it is stated that item No.2 of the property is free from encumbrances and the said property can be offered as security in lieu of item No.1 in respect of which, half share of the revision petitioner has been attached.

3. Learned Senior Counsel, on instructions, states that the plaintiff has no objection for substitution of item No.2 in the place of item No.1. He, however, points out that the requisite formalities for creating necessary charge, as mandated under the Code of Civil Procedure has to be followed for which purpose, the matter may be remitted to the trial Court.

4. In view of the above, the Civil Revision Petition is allowed and the order dated 06.03.2024 in I.A.No.2 of 2023 is modified to the extent



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of substituting $\frac{1}{2}$ share of the revision petitioner in item No.1 with Item No.2 of the petition mentioned property.

5. In view of the above modification, the trial Court shall duly comply with the necessary procedures for effecting the charge in respect of item No.2 of the petition mentioned property alone.

14.07.2025

To
The III Additional District Court, Coimbatore



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P.B.BALAJI.,J.

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C.R.P.No.1960 of 2024 and CMP No.10365 of 2024

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