



WEB COPY



C.R.P.No.2674 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No. 2674 of 2024

S.Ramesh

...Petitioner

Vs.

1.R.Ravinderkumar

2.R.Manju

3.A.P.Ravi

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order in IA.No.7 of 2023 in OS.No.463 of 2020 dated 13.02.2024 on the file of the XVII Additional Judge, City Civil Court, Chennai.



WEB COPY



C.R.P.No.2674 of 2024

For Petitioner : Mr. Vijayakumar
Senior Counsel
For Mr. J.Melwin Jabaz

ORDER

Challenging the dismissal of his application for raising the order of attachment granted in IA.No.7 of 2023 in OS.No.463 of 2020 on the file of the XVII Additional Court, Chennai, the petitioner is before this Court. The brief facts are as follows.

2. The 1st respondent / plaintiff had filed a suit OS.No.463 of 2020 on the file of the said Court, for recovery of a sum of Rs.81,76,789.33 together with interest. It is the case of the plaintiff that the 1st defendant had sought a loan of Rs.30,00,000/- and as a security the 2nd defendant who is none else than the wife of the 1st defendant had executed a deed of guarantee dated 07.03.2016 towards the loan. The 1st defendant had executed a registered mortgage deed dated 07.03.2016.



C.R.P.No.2674 of 2024

WEB COPY

3. Despite several request the repayment was not coming in and the final payment of interest was made by the 1st defendant on 05.12.2017 and thereafter there has been no repayment. Therefore, the plaintiff had come forward with the suit in question.

4. Along with the suit the plaintiff had filed IA.No.4 of 2020 to furnish security for a sum of Rs.81,76,789.33/-, in case of failure to attach the property set out in the schedule to the petition.

5. The petitioner's case is that by order dated 21.01.2021, the learned XVII Additional City Civil Judge, Chennai, had directed the petitioners herein to furnish security to the tune of the suit claim, failing which attachment of the immovable property was ordered. The petitioners before this Court filed IA.No.7 of 2023 seeking to raise the order of attachment made in IA.No.4 of 2020 in OS.No.463 of 2020.



C.R.P.No.2674 of 2024

WEB COPY

6. In the affidavit filed in support of the said petition, the petitioner would submit that he is a third party to the suit but however an interested party in the petition. He would seek to implead himself as he was an agreement holder in respect of the property that has been attached much before the order of attachment. He would submit that the attachment order is post the agreement of sale. Therefore, the attachment has to be raised.

7. The 1st respondent / plaintiff filed a counter in which they would submit that the application is nothing but an abuse of process of Court. The sale agreement has been executed in the year 2013 and his right to sue under the agreement had lapsed. Time was the essence of this agreement and till the date of obtaining the orders of attachment the agreement of sale had not been enforced.

8. The learned Trial Judge by his order dated 13.02.2024 was pleased to reject the request.



WEB COPY



C.R.P.No.2674 of 2024

9. Challenging the same, the petitioner is before this Court.

10. The arguments advanced on the side of the petitioner is that the agreement of sale is earlier in point in time and would prevail over the attachment order. He would rely upon the judgement of the Hon'ble Supreme Court reported in **1990 (3) SCC 291 – Vannarakkal Kallalathil Sreedharan Vs. Chandramaath Balakrishnan and another**, wherein the learned Judges observed that the right of the attaching creditor shall not be allowed to override the contractual obligations arising from an antecedent agreement for sale of the attached property.

11. Heard the learned counsel and perused the records.

12. A perusal of the agreement of sale would show that the same had been entered into on 03.01.2013. In the said agreement of sale it has been stated that the total sale consideration is a sum of



C.R.P.No.2674 of 2024

Rs.50,00,000/- . It is also seen that the vendors therein had agreed to deliver vacant possession at the time of the registration of the sale deed and the balance sale consideration of Rs.35,00,000/- was to be paid within 1 year.

13. A perusal of the affidavit filed in support of the application for raising Judgement would indicate that the even according to the petitioner the sale consideration for the property is over a sum of Rs.3,50,00,000/-, whereas the agreement of sale would only show sale consideration of Rs.50,00,000/-. In para No.2 of the affidavit filed in support of the impugned application, the petitioner has stated as follows:

“I entered into a registered sale agreement vide document Number.21 of 2013 on the file of Adyar, SRO, which is worth about Rs.3,50,00,000/- as for market value and the order of attachment wouldn't sustain.”



C.R.P.No.2674 of 2024

WEB COPY

14. The fact that the agreement of sale is for a lower price than the market value as set out by the petitioner himself gives rise to suspicion that the petitioner is attempting to create a document for reasons best known to him. It is also seen that the agreement of sale has been executed as early as in the year 2013 and no steps have been taken to enforce the same.

15. Although the learned senior counsel appearing for the petitioner would submit that the balance sale consideration has already been paid therefore, the entire sale consideration has been paid up is not as he sets out. On further probing it came to the light that the balance sale consideration was paid only after the order of the attachment. The learned Trial Judge has also taken into account the fact that the agreement of sale itself has become redundant.



C.R.P.No.2674 of 2024

WEB COPY

16. Therefore, in these circumstances I see no reason to interfere with the order. The civil revision petition is dismissed. No costs.

19.03.2025

Index : Yes/No
Internet : Yes/No

kan



C.R.P.No.2674 of 2024

To

The XVII Additional Judge,
City Civil Court,
Chennai.



WEB COPY



C.R.P.No.2674 of 2024

P.T. ASHA, J,

kan

C.R.P.No. 2674 of 2024

19.03.2025