



C.R.P.(PD)(MD).No.70 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).No.70 of 2025
and CMP(MD).No.398 of 2025

J.Saravanaraj

.... Petitioner/Respondent/Defendant

-vs-

A.Selvaperumal

....Respondent/Petitioner/Plaintiff

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.2 of 2021 in O.S.No.142 of 2021 passed by the Principal District Judge, Kanniyakumari at Nagercoil dated 04.11.2024.

For Petitioner : Mr.K.P.Narayanakumar

For Respondent : Mr.K.Sudalayandi

ORDER

The defendant in O.S.No.142 of 2021 on the file of the Principal District Court, Kanyakumari at Nagercoil has filed the present civil revision petition challenging the order passed by the trial Court wherein he has been directed to furnish security for the suit claim.



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2.A perusal of the records reveal that the suit has been filed for recovery of money of Rs.50,54,000/- based upon the cheques issued by the defendant. Along with the plaint, the plaintiff had filed I.A.No.2 of 2021 seeking attachment before judgment. In the said application, an order was passed on 14.11.2024 directing the defendant to furnish security for the suit claim on or before 04.12.2024. Challenging the same, the present civil revision petition has been filed.

3.According to the revision petitioner, the properties which are sought to be attached have already been mortgaged to Tamil Nadu Mercantile Bank by way of Document No.2937 of 2021 dated 04.10.2021 and Document No.3148 dated 21.09.2022. Therefore, the defendant cannot alienate the property.

4.Per contra, the learned counsel for the respondent/plaintiff submits that these mortgages have been created by the defendant after filing of I.A.No.2 of 2021 and therefore, the plaintiff has got an apprehension that he is likely to create further encumbrances over the properties.

5.Pending revision petition, the defendant has filed an affidavit dated 24.02.2025 wherein paragraph No.4 and prayer of the said affidavit



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are extracted as follows:

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“4.It is submitted that since the properties were already under mortgage with TMB Bank the petitioner has no intention to alienate the property and hereby the petitioner undertake that he will not make any alienation or encumbrance over the subject property till the disposal of the suit.

Therefore, it is prayed that this Hon'ble Court may be pleased to record the undertaking Affidavit and may pass such other or further orders as this Hon'ble Court may deem fit and property and thus render justice.”

6.In view of the affidavit filed on the side of the defendant, this Court is inclined to pass the following orders:

a)The undertaking given by the defendant /revision petitioner that he would not alienate the properties is hereby recorded.

b)In case, if any encumbrance is created, the defendant would be liable for contempt proceedings.

c) Any encumbrance pending suit, is liable to be declared as a void transaction.

d)In case, if there are any other properties which are not mortgaged to the Bank, the plaintiff is at liberty to proceed in accordance with law.



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7. With the above said observations, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The Principal District Judge
Kanyakumari at Nagercoil

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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