



C.M.A(MD)No.876 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 26.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.876 of 2025
and
C.M.P(MD)No.13590 of 2025

R.Anandha Kumar

: Appellant

Vs.

1.G.Muthuraj

2.M.Revathi

: Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Order 43 Rule 1 ® of C.P.C., against the fair and decreetal order made in I.A.No.442 of 2022 in O.S.No.208 of 2022 on the file of the V Additional District Court, Madurai, dated 28.11.2024.

For Appellant : Mr.M.Thirunavukkarasu

For Respondents : Mr.S.Sathya Chidambaram



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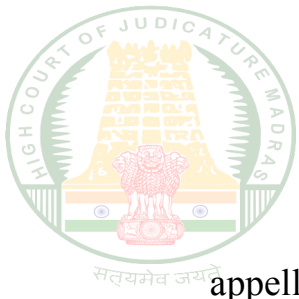
JUDGMENT

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The Civil Miscellaneous Appeal is directed against the fair and decreetal order made in I.A.No.442 of 2022 in O.S.No.208 of 2022 on the file of the V Additional District Court, Madurai, dated 28.11.2024, in closing the petition filed under Order 39 Rule 1 and 2 of C.P.C., as infructuous.

2.It is evident from the records that the appellant/petitioner filed a suit for recovery of money against the respondents. During pendency of the suit, he filed an application seeking temporary injunction restraining the defendants and their men from alienating or encumbering the properties shown therein. When the injunction petition was taken up for hearing on 28.11.2024, the learned District Judge, recording the admission of both sides that the petition schedule property, has already been alienated during the pendency of the injunction petition, proceeded to close the petition as infructuous.

3. The learned counsel for the appellant would submit that since the respondents have attempted to alienate the property, the



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appellant/petitioner was forced to file the above application. But as rightly contended by the learned counsel for the respondents, the only remedy available to the appellant is to seek for attachment of the property before the judgment, which is sought to be alienated.

4. In the case on hand, during the pendency of the injunction application restraining alienation, the property was alienated. Hence, the impugned order closing the petition dismissed as infructuous cannot be found fault with. Consequently, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed.

5. In the result, the Civil Miscellaneous Appeal is dismissed. The petitioner is at liberty to seek attachment before judgment, if any other property is available and if so advised. Consequently, connected Miscellaneous Petition is closed. No costs.

26.08.2025

NCC : Yes: No
Index : Yes : No
Internet : Yes : No
das



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K.MURALI SHANKAR,J.

das

To

- 1.The V Additional District Court, Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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and
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