



C.R..P.(PD)(MD).No.3029 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.3029 of 2024

and

C.M.P(MD) No.17265 of 2024

V.Maleeshwaran

... Petitioner/Petitioner/
Plaintiff

Vs.

T.Selvanayaki

... Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.10.2024 passed in I.A.No.239 of 2024 in O.S.No.102 of 2024 on the file of the Sub Court, Oddanchatram.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : No appearance

ORDER

The plaintiff in O.S.No.102 of 2024 on the file of Sub Court, Oddanchatram, has filed the present Revision Petition, challenging the dismissal of his application seeking attachment before judgment.



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2. A perusal of the records reveal that the suit has been filed seeking recovery of money of a sum of Rs.4,50,000/-, based upon the pronote dated 21.08.2022 along with the plaint. The plaintiff has filed I.A.No.239 of 2024 seeking attachment before judgment. The plaintiff has also filed an affidavit of a third party to the effect that the defendant is attempting to alienate the property and move away from the jurisdiction of the Court. The defendant had filed a counter affidavit contending that she is ready to give an undertaking to the effect that she will not alienate the suit schedule properties pending suit. She has further agreed to file an affidavit to the said effect. However, the trial Court has dismissed the application on the ground that the plaintiff has not established the fact that the defendant is attempting to alienate the suit properties. Challenging the same, the present Civil Revision Petition has been filed.

3. According to the learned counsel appearing for the revision petitioner, the plaintiff had filed a third party affidavit indicating that the defendant is attempting to alienate the properties. The said affidavit has not been considered by the trial Court and the present order rejecting the request of the plaintiff has been passed.



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4. Though the respondent in the revision petition has been served and the name has also printed in the cause-list she has not chosen to appear either in person or through her counsel.

5. Considering the fact that the respondent/defendant has given a specific undertaking in paragraph No.7 of the counter affidavit in I.A.No.239 of 2024 that she would not alienate the suit schedule properties pending suit, this Court is inclined to pass the following order:

a. The respondent/defendant is directed to file an affidavit to the effect that she would not alienate the suit schedule properties pending suit. The said affidavit shall be filed within a period of two weeks from the date of receipt of a copy of this order; and

b. In case of any violation of the undertaking, the trial Court would be at liberty to initiate not only contempt proceedings, but also the proceedings for cancellation of the documents under which alienation or incumbrance were created.



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6. With the above said observations, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

04.02.2025

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

1. The Sub Court,
Oddanchatram.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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