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C.R.P.(PD)(MD)No.3135 of 2024

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.3135 of 2024

and

C.M.P(MD)No.18030 of 2024

Seethalakshmi

...Petitioner/Respondent/Defendant

Vs.

Sameema Begam

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the decretal order, dated 02.12.2024 in I.A.No.1 of 2024 in O.S.No.128 of 2024 on the file of Principal Sub Court at Palani pending disposal of the above Civil Revision Petition.

For Petitioner : Mr.R.N.Kasi Vishwanathan

For Respondent : Mr.S.Muniyandi

* * * * *

ORDER

The defendant in O.S.No.128 of 2024, on the file of the Principal Sub Court, Palani, has filed the present revision petition, challenging the order of attachment before judgment passed in a suit for recovery of money.



C.R.P.(PD)(MD)No.3135 of 2024

WEB COPY

2. According to the learned Counsel appearing for the revision petitioner, the said order had been passed without giving due opportunity to the revision petitioner. However, the learned Counsel appearing for the respondent submits that only after granting full opportunity to the defendant, the said order of attachment had been passed.

3. Pending revision petition, the defendant has filed an undertaking affidavit before this Court. Paragraph No.4 and the prayer in the said affidavit are extracted as follows:-

“I humbly submit that with the above stated circumstances through this affidavit I undertake that I will not alienate the subject property comprising of 1016 sq. ft situated in Survey No.58/12A vide Sub division Patta No.2868 at anytime until the disposal of O.S.No.128 of 2024. As the subject property is in my possession and enjoyment, I have no intention to transfer it to anybody.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to record this undertaking affidavit that I will not alienate the subject property comprising of 1016 sq. ft. situated in Survey No.58/12A vide Sub division Patta No.2868 at anytime until the disposal of O.S.No.128 of 2024 and thus render justice.”



C.R.P.(PD)(MD)No.3135 of 2024

WEB COPY

4.The defendant has now given an undertaking that he would not alienate the property which is mentioned in I.A.No.1 of 2024.

5.In view of the above said facts, this Court is inclined to pass the following orders:-

- a)the order passed in I.A.No.1 of 2024 in O.S.No.128 of 2024, attaching the suit schedule property is hereby set aside;
- b)the undertaking affidavit filed by the defendant is recorded;
- c)In case of any violation of this undertaking, the defendant would not only be called upon under the contempt proceedings, but also the encumbrance would become void.

6.With the above said observations, this Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

25.02.2025

Internet:Yes/No
Index:Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

To

The Principal Sub Court, Palani.

Copy to:-

The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.

C.R.P.(PD)(MD)No.3135 of 2024

25.02.2025