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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 2978 of 2023

CNR:{HCMA011455712023}

AND

CMP NO. 18402 OF 2023

A. Jailabdeen

..Petitioner(s)

Vs

K. Abdullah

..Respondent(s)

PRAYER:This revision petition has been filed seeking to set aside the fair and decretal order dated 12.06.2023 passed by the Learned First Additional Subordinate Judge, Coimbatore passed in IA.No.1 of 2019 in IA.No. 670 of 2018 in OS.No. 956 of 2018 and allow the above CRP.

For Petitioner(s): Mr.T.M.Pappiah

For Respondent(s): No appearance

ORDER

The present Civil Revision Petition has been filed challenging the fair and decretal order dated 12.06.2023 passed by the learned Ist Additional Subordinate Judge, Coimbatore in IA.No.1 of 2019 in IA.No. 670 of 2018 in OS.No. 956 of 2018, whereby the application filed by the petitioner/defendant

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seeking to raise the order of interim attachment came to be dismissed by the Court below.

2.Heard both sides. The respondent has been served with notice and the name of the respondent has been printed in the cause list. However, there is no representation on behalf of the respondent either in person or through counsel.

3.The respondent herein is the plaintiff, who instituted the suit in O.S. No.956 of 2018 under Order XXXVIII Rule 5 of the Code of Civil Procedure, seeking attachment before judgment, in the absence of the petitioner/defendant furnishing security.

4.The Court below passed an order of interim attachment on 27.08.2018. Pursuant thereto, the petitioner filed I.A. No.1 of 2019 seeking to raise the order of attachment on the ground that notice calling upon them to furnish security had not been properly served and that the order of attachment was passed by the Court below without proper notice.

5.The Court below dismissed the said application on the ground that notice had been served on the petitioner and that, despite such service, they had failed to furnish security. Therefore, the Court below held that there was no ground to raise the order of attachment. Aggrieved by the said order, the present

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Civil Revision Petition has been filed.

6. On going through the records, it is seen that the notice calling upon the petitioner to furnish security was not properly served on them in the prescribed form and, nevertheless, the Court below proceeded to pass an order of interim attachment. That apart, the petitioner/defendant had already filed a caveat and, therefore, the Court below ought to have afforded them an opportunity of hearing before passing the order of interim attachment.

7.Thus, without properly putting the petitioners on notice and calling upon them to furnish security, the order of attachment came to be passed by the Court below. The Court below, without properly appreciating the aforesaid facts, dismissed the application filed by the petitioner seeking to raise the order of interim attachment. Hence, this Court is of the view that the said order warrants interference.

8.In the light of the above discussion, the order passed in IA.No.1 of 2019 in IA.No. 670 of 2018 in OS.No. 956 of 2018 is hereby set aside. Consequently, the order of interim attachment passed in I.A. No.670 of 2018 is raised. The Court below is directed to deal with I.A. No.670 of 2018 on its own merits and in accordance with law, after affording an opportunity of hearing to both parties.

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9.It is seen that the suit was instituted in the year 2018 and that issues have not even been framed till date. Hence, the learned Ist Additional Subordinate Judge, Coimbatore, is directed to dispose of the suit in O.S. No.956 of 2018 within a period of four months from the date of receipt of a copy of this order.

10.Accordingly, this Civil Revision Petition is allowed in the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20-11-2026

Neutral Citation: Yes/No

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To

The learned Ist Additional Subordinate Judge, Coimbatore

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N.ANAND VENKATESH J.

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