

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, KRISHNAGIRI.

**PRESENT.TMT.R.VASANTHI, M.L.,
PRINCIPAL DISTRICT JUDGE [FAC]**

Monday the 07th day of August 2023.

I.A.No.04/2023

in I.A.No.2/2022 in O.S.No.473/2022

[CNR.No.TNKI-01-004458-2022]

C.Srinivasan

... Petitioner / Plaintiff

...Versus...

1. R.Ramamurthy

2. G.Vijayalakshmi

... Respondents / Defendants.

This petition has come up on 05.08.2023 before this Court, in the presence of Tr.M.Rajendran, Counsel appearing for the petitioner and Tr.K.Baskar, Counsel appearing for the respondents after hearing both side arguments and upon perusal of records, having stood over for consideration till this day, this Court delivers the following :

ORDER

The petition is filed u/s.2(B) of Contempt of Courts Act 1971 r/w.S.151 of C.P.C., to take action against the respondents in above case for contempt of Court.

I. The averments of the petition are as follows :

The petitioner is the plaintiff in the above suit and that the petitioner has filed a Pronote suit against the respondents along with ABJ petition. The respondents had furnished security in I.A.No.02/2022 in O.S.473/2022 on 13.02.2023 and thus the I.A.No.02/2022 is closed.

After furnishing security, the 1st respondent has entered into a registered sale agreement with one Parvathi, D/o.Annamalai on 24.02.2023. If the said agreement is executed, the petitioner will be put into irreparable loss and not able to claim the amount.

After furnishing security to the Court, the respondents have no right to alienate the security furnished property and the sale agreement is not valid and has to be set aside. Therefore, the petitioner prays to pass order and taking action against the respondent in the above case for contempt of Court.

II. The averments of the Counter are as follows :

The petition is not maintainable. The petitioner has filed the petition to attach the properties of the Respondents nearly 9 item of the properties which are worth more than Rs.4,00,00,000/- [Rupees Four Crore only] and the amount claimed by the petitioner in the suit is only a sum of Rs.40,00,820/- [Rupees Forty Lakh Eight Hundred and Twenty only] which is barred by limitation. The counsel appeared for the respondents in earlier occasion without stating the consequences of the security obtained signature

and filed the same in the above case. Now the respondents have entered agreement only in respect of the 7th item of the schedule property which is worth more than a sum of Rs.3,00,00,000/- [Rupees Three Crores only]. The agreement entered only for the amount borrowed to discharge the sundry debts incurred by the respondents to their creditors.

As already stated, since the security furnished for 9 items of the properties and the remaining properties is enough to satisfy the decree amount if the petitioner is able to prove his suit claim. Hence, there is no necessity to reopen the I.A.No.02/2022 and no valid grounds stated by the petitioner. Petitioner has not come to the court with clean hands and that the petitioner not entitled to seek any relief in the said petition.

The court has not passed any order against the respondents, not to alienate the properties which is furnished as security in the suit. In fact, even if the property sold the purchaser is liable to satisfy the decree amount the petition filed under the Contempt of Court Act is not maintainable and is only applicable to the Hon'ble High Court or Hon'ble Supreme Court and that therefore, the petition is liable to be dismissed.

III. Point for determination :

1. Whether the petition is to be allowed as prayed for ?
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IV.On Point :

The petitioner has stated that even after furnishing security, the respondent has entered into a sale agreement in respect of one among the property, furnished as security.

2. On the other hand, the respondents have contented that the value of the 7th item of the property entered into sale agreement is more than that of the claim of petitioner on Pronote and that the remaining properties are enough to satisfy the decree amount if the petitioner is able to prove his claim and that the Court has not passed any order would cover the suit claim and that the present petition is not maintainable before this Court which has no power under the Contempt of Courts Act and that the petition is liable to be dismissed.

3. Section 2(b) of the Contempt of Courts Act, 1971 defines “civil contempt” as willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a Court.

4. In this matter, the attempt to alienate the security property made by the respondent is made after closing of petition filed for attachment before Judgment. The version of the respondent is, the value of the property furnished by the respondent is higher than the claim of the petitioner.

However, attempt to alienate the property given for security made by the respondent would no doubt covered under the ' willful breach of an undertaking given to a Court '. But, since the ABJ petition is reopened, for adjudication, at this stage this petition is to be kept in abeyance till the outcome of ABJ petition. This petition is ordered accordingly.

In the result, this petition is ordered to be kept in abeyance till the outcome of ABJ Petition.

Dictated to the Stenographer, directly typed by the stenographer, corrected and pronounced by me in the Open Court on this, the 07th day of August 2023.

Principal District Judge,
Krishnagiri. [FAC]