In the Court of I Additional District Judge, Coimbatore
Coimbatore.

Present: Thiru G. Sundararajan, B.Sc.,B.L.,
I Additional District Judge,
Coimbatore.

Monday the 10th day of August 2026
(Thiruvalluvar Andu 2057, Parabhava varusham, Aadi Thingal 25)

I.A No.2/2024
in
Original Suit No.762/2022
(CNR.No. TNCB01-004081-2022)

N. Ramesh ...Petitioner /Plaintiff

//Vs //

N. Muthukumar
Proprietor of NSK Pawn brokers ...Respondent /Defendant

The Petition came up for final hearing on 30.07.2026 in the presence of Thiru. V. Ramanababu, Advocate appearing for the petitioner/plaintiff and Thiru. T. Nambikki Domnic, Advocate for the respondent /defendant and upon hearing both side arguments and upon perusing the case records and having stood over for consideration till this day, this Court delivers the following:-

ORDER

This petition filed by the petitioner under order 38 Rule 5 CPC for attachment of the petition mentioned property before judgment.

2. The petitioner is the plaintiff in the suit and he filed a suit for recovery of money against the respondent /defendant. The petitioner is running a gold business in the name of Gajalakshmi Jewellery. The respondent is known to him for more than 10 years through his business and he became his friend. The respondent is in the habit of re-pledging gold jewellery to the petitioner for money and repaying the money by time to time. Whileso, that on 02.03.2015, the respondent has borrowed 2717.400 gram pure gold worth about Rs.75 lakhs agreeing to pay interest at the rate of 1.5% per Rs.100/- per month and also agreed to repay the same in 72 monthly installaments and to pay Rs.1,71,058.43 as EMI and executed a agreement in the presence of witnesses. The said loan was borrowed by the respondent to develop his business and to discharge the loan in the bank. On the date of borrowal, the respondent produced two original property documents as security for the said loan, but the respondent has not paid the EMI of Rs.1,71,058.43 from January 2019. When the petitioner tried to contact the respondent, but the respondent used delay tactice and that on 21.07.2019 both the petitioner and the respondent calculated and arrived a sum of Rs.60,74,207/- as pending amount. The respondent accepted to pay the amount and issued a cheque for a sum of Rs.64,74,207/- drawn on Katholic Syrian Bank, Lakshmipuram, Ganapathy, Coimbatore. The petitioner presented the cheque for collection on 24.07.2019 and the same was returned as funds insufficient and he caused statutory notice to the respondent, but the respondent did not repay the amount. Hence the petitioner filed a criminal case u/s 138 of NI Act in CC.No.545/2019 on the file of J.M.No.I, FTC. Coimbatore and the same is pending. The respondent is liable to repay the pending amount of Rs.60,74,207/- with subsequent interest and he did not pay the amount, the petitioner would be put into irreparable loss and hardship and prayed to attach the petition mentioned property before judgment.

3. The respondent on the other hand disputed this petition by filing his counter stating that the petitioner is trying to make the respondent liable for the loan, he never borrowed, as the respondent used to borrow money from petitioner by pledging his owning from time to time. At the time, he used to lend some of his land documents, gold and cheque. But, after repayment the respondent has requested the petitioner to destroy the cheques and retrieved the gold which was pledged, but he did not retrieve the documents on trust. But, the petitioner misusing the cheques and filed 5 different cheque cases before the J.M.No.I, Fast Track Court with different drawee names and 3 of the cheque case were dismissed for default and 2 of them are still pending and thus petition has no merits and is liable to be dismissed.

4. Whether the petition attachment before judgment is to be allowed?

5. Both side heard and records perused. The petitioner is the plaintiff in the suit and he filed a suit for recovery of money based on the cheque dated 23.07.2019 for a sum of Rs.60,74,207/- with subsequent interest. It is stated by the petitioner that he is running a gold business in the name of Gajalakshmi Jewellery and the respondent is known to him through his business and he became his friend and he is in the habit of re-pledging gold jewellery to the petitioner for money and repaying the money by time to time. Whileso, that on 02.03.2015, the respondent has borrowed 2717.400 gram pure gold worth about Rs.75 lakhs agreeing to pay interest at the rate of 1.5% per Rs.100/- per month and also agreed to repay the same in 72 equally monthly installments of Rs.1,71,058.43 and executed a agreement in the presence of witnesses and on the date of borrowal, the respondent produced two original property documents as security for the said loan, but the respondent has not paid the EMI of Rs.1,71,058.43 from January 2019. When the petitioner tried to contact the respondent, but the respondent used delay tactice and that on 21.07.2019 both the petitioner and the respondent calculated and arrived a sum of Rs.60,74,207/- as pending amount. The respondent accepted to pay the amount and issued a cheque for a sum of Rs.64,74,207/- drawn on Katholic Syrian Bank, Lakshmipuram, Ganapathy, Coimbatore. The petitioner presented the cheque for collection on 24.07.2019 and the same was returned as funds insufficient and then he caused statutory notice to the respondent, but the respondent did not repay the amount. Hence the petitioner filed a criminal case u/s 138 of NI Act in CC.No.545/2019 on the file of J.M.No.I, FTC. Coimbatore and the same is pending. The respondent is liable to repay the pending amount of Rs.60,74,207/- with subsequent interest and he did not pay the amount, and now the petitioner is attempting to alienate the petition mentioned property and he done so, the petitioner would be put into irreparable loss and hardship and prayed to attach the petition mentioned property before judgment.

6. The respondent on the other hand disputed the petition by stating that he did not borrow any loan from the petitioner and he did not execute any agreement as alleged by the petitioner. The respondent used to borrow money from petitioner by pledging his owning from time to time. At the time, he used to lend some of his land documents, gold and cheque. But, after repayment the respondent has requested the petitioner to destroy the cheques and retrieved the gold which was pledged, but he did not retrieve the documents on trust. But, the petitioner misusing the cheques and filed 5 different cheque cases before the J.M.No.I, Fast Track Court with different drawee names and 3 of the cheque case were dismissed for default and 2 of them are still pending and thus petition has no merits and is liable to be dismissed.

7. Though the respondent stated that the petitioner misused the cheque and documents given as security for the loan already borrowed and the same was discharged by him, but the petitioner has not returned the documents, since there exists some transaction between the petitioner and the respondent and the amount involved is of huge. Whether the cheque given for security is misused by the petitioner or not is to be decided only during the course of trial, until then the petition mentioned property could not be alienated and if the respondent alienated, the petitioner would not able to recover the amount if the suit is decreed. So the reason stated by the petitioner for attachment before judgment is reasonable and acceptable. Hence the petition to attach the petition mentioned property before judgment is allowed. Accordingly, this petition is allowed.

8. In the result this petition is allowed. No costs. Attachment by 15.10.2026.

Dictated to the Steno-typist, directly typed by her in computer and , corrected and pronounced by me in open court on this the 10th day of August 2026.

SUNDARARAJAN Digitally signed by SUNDARARAJAN Date: 2026.08.10 21:01:33 +0530

I Additional District Judge
Coimbatore.

Draft/Fair: Order
I.A.No.2 of 2024
in
OS.No.762/2022
Date-10.08.2026
I ADJ Court, Cbe.