

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
KANCHEEPURAM DISTRICT AT CHENGALPATTU.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Wednesday the 24th day of August 2022

Unnumbered E.P. SR.No. 1919 of 2022

in

EP.No.5 of 2013

N.Natarajan . . . Intervenor / Intervene Petitioner.

/Vs/

1. N.R.Subramanian . . . Respondent /Judgment Creditor/Plaintiff.

2. D.V.Venkatesan . . . Respondent /Judgment Debtor/Defendant.

This unnumbered petition came up before me in this court for final hearing on 20.7.2022, in the presence of Tvl.S.Elangovan and M.Prabakaran, Advocates for the petitioner, upon hearing the arguments of petitioner's counsel on maintainability, perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Order 21 Rule 97 r/w Rule 101 of CPC, praying to permit the petitioner to intervene in this matter in public interest and as an affecting party and to make submission at the time of arguments.

2. The case of the petitioner in brief :

The petitioner is well conversant and acquainted with facts and circumstances of the case in EP.No.5/2013 in O.S.No.270/2012. The petitioner is challenging the execution petition filed by the Judgment Holder against the Judgment Debtor in EP 5/2013. The petitioner is a judgment holder of Award - AC 9/2011, dated 2.2.2011 against the Judgment Debtor herein in EP 5/2013 had there been no encumbrance and attachment of the scheduled property. The schedule property is already attached by the Employees Provident Fund Enforcement Office, Ministry of Labour, Government of India by Order No.TB/TAM/60259/Enf/Sub-Registrar/T-4/2014 dated 23.6.2014, whereas this court's order for attachment of the property has been entered on 15.9.2014 as visible on the encumbrance copy. This fact has been suppressed and concealed by the Judgment Creditor. The petitioner's father-in-law Muthukurusamy, had advanced an amount of Rs.25,00,000/- to the Judgment Debtor in view of petitioner's business partnership with him, whereas the latter did not start any business as assured of and so the matter was settled via an arbitral award dated 2.2.2011 directing the Judgment Debtor to pay Rs.25,00,000/- with 18 percent interest per annum. This award is untraceable as he died suddenly and as there was no other property in the judgment debtor's name, the petitioner could not

execute the award in time. Having known that this property is attached in EP. 5/2013 despite the former attachment by the EPF beforehand the petitioner is filing this intervene petition to inform the court with due respect that the attachment of the property is not possible, nor EP 5/2013 is maintainable in the eye of law when there is already an attachment. Hence, the petition.

3. The point that arises for consideration is whether the petition is maintainable.

4. Point :

Heard the arguments of petitioner's counsel. This petition is filed under Order 21 R 97 r/w Rule 101 in EP 5/2013. The above EP is filed for recovery of money whereby the property is brought for sale. After this court passed an order for proclamation and sale, EP was stopped by filing set aside application to set aside the exparte decree in the suit, and an application to condone the delay of 1152 days on 15.4.2019 in EA SR 698/2019 which is pending for arguments. Execution petition of the year 2013, pending till date.

5. In the meantime this petition is filed as a intervenor. It is not filed as an objector. Further petitioner states he is the Judgment Holder of award in AC 9 of 2011. The award copy is not produced. Further in the next para of the petition, petitioner states that his father-in-law holding the award and untraceable as he died suddenly.

6. Even assuming father-in-law holding the award, no original award is produced as mentioned earlier. Further how a son-in-law can represent deceased father-in-law. All these aspects are not explained.

7. Further petitioner states property attached by Employees Provident Fund Organization, therefore attachment by this court is not proper. But EC is produced. But it is the look out of the decree-holder in the execution petition to prove the property is free from attachment, but not explained by the petitioner / intervenor why this intervenor raising a plea on behalf of provident fund organization.

8. It appears the petitioner without any right tried to stop the EP proceedings which is not maintainable.

9. This application as an intervenor is only to stop EP proceedings, without any right for the petitioner / intervenor. No merits in this application. Petition has to be rejected.

10. **As the result, the petition is rejected. No costs.**

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 24th day of August 2022.

Principal District Judge,
Chengalpattu.