

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

Present : **Thiru.T.Chandrasekaran, M.L.**,
Principal District Judge, Chengalpattu.

Tuesday the 4th day of November, 2025

I.A.No.2/2021
in
O.S.No.174/2021

A.Palani . . . Petitioner / Plaintiff.

/Vs/

S.Perumal . . . Respondent/respondent.

This petition came up before me for final hearing on 19.7.2025, in the presence of Tvl.R.Sugumar, K.Jahir Hussain, A.Sakthivel and A.Gopinath, Advocates for the petitioner and Tvl.P.K.Ganesh and K.Rajesh Kumar, Advocates for the respondent, upon hearing the arguments of both side counsel, perusing the entire records and having stood over the matter for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner / plaintiff under Order 28 Rules 5 to 7 and Section 151 of CPC to direct the respondent / defendant to furnish security for the suit claim and on his failure attachment of suit schedule property before judgment.

2. The averments set out in the petition filed by the petitioner briefly read as follows :

The petitioner is the plaintiff in the suit. The petitioner is doing various kinds of business and has surplus funds with him. The respondent /respondent is doing textile business at Tambaram. The petitioner knows the respondent for more than 20 years. The respondent used to borrow amount from the petitioner and used to discharge the same within a short period. In the usual course of business, the respondent approached the petitioner to lend money for his business. Accordingly the respondent had borrowed a sum of Rs.25,00,000/- each on 12.9.2018, 15.10.2018, 7.11.2018, 5.1.2019, 11.1.2019, 15.3.2019, 14.5.2019, 25.6.2019, 8.9.2019 and 21.9.2019 from the petitioner i.e., totally Rs.2,50,00,000/- for the purpose of meeting his textile business, agreeing to repay the same together with interest at 12% per annum and executed the promissory notes on the respective dates for the amount borrowed by him in favour of petitioner and delivered the promissory notes to the petitioner at Tambaram. The petitioner believed that the respondent would repay the entire amount within a short period as he did before. But in spite of repeated demands, the respondent has failed to discharge the said promissory notes. The respondent also assured that he would sell his property and discharge the suit promissory notes and and the petitioner was also eagerly waiting for the same. Now the petitioner suspects that the respondent is attempting to cheat the petitioner. If the respondent files vexatious written statement and

protracts the proceedings, the petitioner is also entitled to compensatory costs under Section 35A of CPC apart from the regular costs of the suit. The respondent is not entitled to benefits of any of the Debt Relief Act as he owns substantial properties worth more than Rs.2,00,00,000/- and he is a Debtor as defined in the Debt Relief Acts. He is an income tax and sales tax assessee. The respondent is a person migrated from outside Chennai, hence, he may abscond at any time after selling his properties to third parties. In fact, the respondent sold one of his valuable properties under a sale deed for a recited sale price of Rs.2,00,00,000/- to one Murugan and failed to discharge the petitioner's loan amount as assured by him. Now the respondent is also attempting to sell his remaining properties described in the petition. In item No.1 of the petition mentioned properties, the respondent has only undivided 1/2 share. Hence, if the respondent succeeds in his attempt, the petitioner could not recover the decree amount and the purpose of filing the suit itself will get defeated. Hence, the petitioner prays to furnish security for the suit claim and on his failure, attachment of the petition mentioned properties before judgment may kind be ordered. No prejudice would be caused to the other side. Otherwise the petitioner will be put to irreparable loss and hardship. Balance of convenience lies in allowing the petition. Hence, the petition.

3. The avements set out in the counter filed by the respondent briefly read as follows :

The promissory notes dated 12.9.2018, 15.10.2018, 7.11.2018, 5.1.2019, 11.1.2019, 15.3.2019, 14.5.2019, 25.6.2019, 8.9.2019 and 21.9.2019 are all forged promissory notes and the respondent / defendant has no connection with the same and further at any point of time the respondent has not received any amount from the petitioner as alleged in the petition. Till date the petitioner has not sent any demand notices / legal notices to the respondent before filing the said suit to demand the principal and interest from the respondent. The petition mentioned properties for attachment are mortgaged by the respondent before M/s. Repco Bank Ltd., Tambaram, on 13.10.201, 30.12.2011. The facts being so, then on what circumstances the petitioner has given a sum of Rs.2,50,00,000/- by way of cash to the respondent on various dates, that too without any endorsement of cash payment, without paying the same on online transactions (NEFT, RTGS, IMPS) or issued any cheques or demand drafts to the respondent is not known. Since the source of the funds of the petitioner is not disclosed and the money involved is out of unaccounted transactions, the petitioner is not entitled for a security as the item No.1 and 2 of schedule of properties were mortgaged by the respondent before M/s. Repco Bank Ltd., Tambaram on 13.10.2014 and 30.12.2011. Further the respondent's wife is also one of the co-owners of item No.1 but she is not shown as a party in

the petition and also the bank wherein the properties were mortgaged. It is crystal clear that the petitioner has approached this court with unclean hands. The petition is liable to be dismissed for non-joinder of necessary parties. All the contentions raised by the petitioner in the affidavit are only vague in nature, no substantial reason to accept the contentions of the petition and further petitioner not made out any case and hence, the petition deserves to be dismissed. Further the respondent reserves his rights to file an additional counter affidavit and documents if needed. Hence, prayed for dismissal of petition with heavy costs.

3. On 31.7.2024, an order for attachment of property was passed and the respondent / defendant challenged the same before the Hon'ble High Court, Madras in C.R.PD.No.910/2025 in which the order of this court dated 31.7.2024 was set aside.

4. Pending petition, the respondent / defendant furnished security for a property standing in his name. But the petitioner / plaintiff filed objections for the same which are as follows :-

4(i) The proposed security furnished by the respondent / defendant is incorrect, insufficient and unsustainable in law and on facts. The proposed security furnished by the respondent / defendant is not in accordance with Form No.6 of Appendix F of CPC. It is reliably understand that there is litigation with regard to the proposed security property furnished by the respondent / defendant which is wantonly

suppressed by the respondent / defendant with a view to cheat the petitioner / plaintiff and this court. The respondent / defendant has not furnished the details of purchase date and failed to produce the original purchase deed. No extent of property regarding land and the plinth area of the building has been mentioned in the proposed security furnished by the respondent / defendant. The value mentioned as Rs.2,25,00,000/- is exaggerated and fanciful. No data has been furnished for the same. The present guideline value is Rs.1,650/- per sq.ft.,

4(ii) The intention of the respondent / defendant is only to cheat the petitioner / plaintiff without paying the amount, even after passing of the decree. Hence, the property mentioned in the ABJ petition may be ordered to be attached. The petitioner / plaintiff is taking steps to find out the litigation particulars regarding the proposed security furnished by the respondent / defendant. Hence, the petitioner / plaintiff reserves his right to file additional objections. If the proposed security furnished by the respondent / defendant is accepted, which is the subject matter of litigation, the petitioner / plaintiff will be put to irreparable loss and hardship. Balance of convenience lies in rejecting the proposed security furnished by the respondent / defendant. Hence, no prejudice would be caused to the respondent / defendant in ordering the attachment of the property before judgment. Hence, the proposed security furnished by the

respondent / defendant may be rejected and order of attachment of property in ABJ petition may be ordered.

5. The point that arises for consideration is :

Whether the security furnished by the respondent / defendant has to be rejected?

6. On Point :

Heard both sides. Perused the records. Originally this court was pleased to direct the respondent to furnish security by order dated 22-09-2021. On petition filed by the respondent herein in I.A.No.4/2021, the said order was set aside by this court vide its order dated 20-01-2022. While so this court has passed an erroneous order dated 31-07-2024 ordering for attachment and the same has been set aside by the Hon'ble High Court vide its order in C.R.P.PD.No.910/2025 dated 06-03-2025. There after the respondent / defendant furnished security for a property standing in his name.

7. The reason now stated in the objection filed by the petitioner/plaintiff impugning would be that the proposed security furnished by the respondent / defendant is not in accordance with Form No.6 of Appendix F of CPC; there is litigation with regard to the proposed security property furnished by the respondent / defendant which is wantonly suppressed by the respondent / defendant with a view to cheat the petitioner / plaintiff and this court; the respondent / defendant has not

furnished the details of purchase date and failed to produce the original purchase deed; no extent of property regarding land and the plinth area of the building has been mentioned in the proposed security furnished by the respondent / defendant and the value mentioned as Rs.2,25,00,000/- is exaggerated and fanciful. The petitioner also emphasized in his objection that he is taking steps to find out the litigation particulars regarding the proposed security furnished by the respondent / defendant and hence, the petitioner / plaintiff reserves his right to file additional objections. Adverting so, the petitioner is insisting for attachment of the petition mentioned property.

8. Where as the meticulous perusal of records reveals that the security is furnished fortified by certified copy of sale deed standing in the name of the respondent/defendant, encumbrance certificate and valuation report. This court is satisfied with the bonafides of the security is furnished by the respondent and that apart the respondent herein has come forward to make endorsement in the petition itself giving an undertaking that he will not alienate the properties mentioned in ABJ petition. In the absence of any litigation particulars furnished by the petitioner, this court is unable to smell any foul play on the part of the respondent and considering the facts and circumstances of the case on hand, especially the amount allegedly lent by the plaintiff without obtaining any security by cash, there is nothing to meddle with the security furnished by the respondent. This court finds no

reason to do away the security furnished by the respondent and go for attachment before judgment. The balance of convenience lies with the respondent only.

9. In the result, I.A.No.2/2021 is disposed of accordingly. No costs.

Typed to my dictation, corrected and pronounced by me in open court, on this the 4th day of November, 2025.

Principal District Judge,
Chengalpattu.

Both side witness and exhibit :

Nil.

Principal District Judge,
Chengalpattu.

