

IN THE COURT OF ADDITIONAL DISTRICT JUDGE, DINDIGUL

Present: Thiru. Swarnam J.Rajagopalan, B.A.,B.L.,(Hons)

Additional District Judge, Dindigul.

Wednesday, dated this the 17th day of June, 2026

I.A.No.2/2024

in

I.A.No.1/2022

In

O.S.No.288/2022

Archana Devi

....Petitioner/ 3rd party

-Vs-

1. N.K.Karuppusamy

... 1st Respondent/Petitioner/Plaintiff

2. Velankanni Prabhu @ Velankanni

... 2nd Respondent/Respondent/Defendant

This petition came up for final hearing on 12.06.2026 before me in the presence of Thiru.S.M.Loganathan, the learned counsel for petitioner/ 3rd party. Thiru.S.Thiyagarajan, the learned counsel for the 1st respondent/petitioner/plaintiff. Thiru. V.S.Gandhimathinathan, the learned counsel for the 2nd respondent/respondent/defendant and upon heard enquiry on both sides and having stood over under the consideration of this court till this date and this court this day delivered the following:

ORDER

This petition has been filed by the petitioner/third party under Order XXXVIII Rules 8 and 9 read with Section 151 CPC, seeking to raise and vacate the order of attachment effected on 24.04.2023 in I.A.No.1 of 2022 in respect of the petition

schedule properties, which were purchased by the petitioner/third party under a Sale Deed dated 16.06.2022.

2. Brief averments of the petition are as follows:

- I. The petitioner herein is the third party in the above petition. The petition schedule property originally belonged to S. Sakthiganesh under a registered Sale Deed dated 12.04.1993 and was thereafter conveyed to S. Mottaiyandi under a registered Sale Deed dated 10.11.1995. After the death of S. Mottaiyandi on 21.03.2003, his legal heirs executed a registered General Power of Attorney dated 27.04.2011 in favour of M. Manikandan. Pursuant to the said Power of Attorney, M. Manikandan conveyed the property in favour of S. Velankanni under a registered Sale Deed dated 20.01.2015.
- II. Subsequently, S. Velankanni agreed to sell the property to the petitioner/third party and, in pursuance thereof, executed a registered Sale Deed dated 16.06.2022 (Document No.3847 of 2022) for valuable consideration and delivered possession of the property to the petitioner. Ever since the date of purchase, the petitioner has been in lawful possession and enjoyment of the property, has obtained revenue records in her favour and has been paying the requisite taxes.
- III. Thereafter, the petitioner came to know that the petition schedule property had been attached before judgment on 24.04.2023 in I.A.No.1 of 2022 in

O.S.No.288 of 2022 at the instance of the first respondent as against the second respondent. The said attachment was effected subsequent to the purchase of the property by the petitioner on 16.06.2022. The petitioner is a bona fide purchaser for valuable consideration. The attachment before judgment dated 24.04.2023 does not affect or bind the rights acquired by the petitioner under the registered Sale Deed dated 16.06.2022. Therefore, the attachment is not legally enforceable against the property purchased by the petitioner.

IV.Hence, it is just and necessary that the attachment before judgment dated 24.04.2023 made in I.A.No.1 of 2022, insofar as it relates to the property purchased by the petitioner, be raised and vacated. Otherwise, the petitioner will be put to irreparable loss and hardship. Hence, the petition.

3. Brief averments of the counter statement filed by the first respondent are as follows:

- I. The petition is not maintainable either in law or on facts. The petitioner is not entitled to any of the reliefs sought for in the petition. The petition has been filed on false and untenable allegations solely with an intention to harass the respondents.
- II. It is admitted that the schedule property originally belonged to the second respondent. However, the allegations that the petitioner entered into a Sale Agreement dated 19.11.2020, purchased the property under a Sale Deed dated

16.06.2022, is in possession and enjoyment thereof, and that the respondents acted fraudulently in obtaining the order of attachment before judgment, are all false and denied.

III. The second respondent had borrowed monies from various persons and had executed nominal documents in respect of the schedule property as security for such borrowings. The schedule property, however, has always remained in the possession and enjoyment of the second respondent. The claim of the petitioner that she is in possession and enjoyment of the property is false.

IV. The suit was instituted by the first respondent for recovery of the amount due from the second respondent. Since the second respondent was attempting to alienate his properties with a view to defeat the lawful claim of the first respondent, an application for attachment before judgment was filed and the same was allowed by this Court.

V. The alleged transactions relied upon by the petitioner are not genuine conveyances. The second respondent had executed similar documents in favour of several persons in connection with various borrowings. The alleged document in favour of the petitioner was also executed only as a security arrangement and not with an intention to convey title or possession of the property.

VI. The petitioner and the second respondent have colluded with each other and filed the present petition with an intention to defeat the claim of the first respondent and avoid payment of the amount lawfully due. Significantly, the second respondent has never pleaded in the suit proceedings that the property had been sold to the petitioner or that possession had been handed over to her.

VII. The attachment before judgment was ordered only in respect of the property belonging to and possessed by the second respondent. Therefore, the petitioner has no legal right to seek raising of the attachment, and the present petition is liable to be dismissed.

4. To substantiate her case, the petitioner examined herself as PW1 and marked Exs.P1 to P7. On the side of the respondents, the 1st respondent examined himself as RW1. No document was produced on behalf of the respondents. No counter has been filed by the 2nd respondent.

- Ex.P1 – Original Sale Deed dated 12.04.1993 executed by Venkidusamy and others in favour of S. Sakthiganesh.
- Ex.P2 – Computer-generated certified copy of the Sale Deed dated 10.11.1995 executed by S. Sakthiganesh in favour of S. Mottaiyandi.
- Ex.P3 – Registered General Power of Attorney dated 27.04.2011 executed by Veerasinnammal and others in favour of M. Manikandan.

- Ex.P4 – Computer-generated certified copy of the Sale Deed dated 20.01.2015 executed by M. Manikandan in favour of S. Velankanni.
- Ex.P5 – Computer-generated certified copy of the Sale Deed dated 16.06.2022 executed by S. Velankanni in favour of the petitioner.
- Ex.P6 – Computer-generated certified copy of Patta No.12678 and 10(1) Chitta standing in the name of the petitioner.
- Ex.P7 – Kist (Land Revenue Tax) receipts (2 Nos.) evidencing payment of land revenue by the petitioner in respect of the petition schedule property.

5. The following point arises for consideration:

"Whether the petitioner is entitled to have the attachment before judgment raised and vacated in respect of the petition schedule property?"

6. Heard both sides. Records perused.

I. The burden lies upon the petitioner to establish her independent right, title and interest over the petition schedule property. In the present case, the petitioner has produced the chain of title documents commencing from Ex.P1 Sale Deed dated 12.04.1993, Ex.P2 Sale Deed dated 10.11.1995, Ex.P3 General Power of Attorney dated 27.04.2011, Ex.P4 Sale Deed dated 20.01.2015 and Ex.P5 Sale Deed dated 16.06.2022 executed in her favour. These documents establish the continuous flow of title culminating in the petitioner's purchase of the property.

II. Ex.P5, the registered Sale Deed standing in the name of the petitioner, clearly shows that the property was conveyed in her favour on 16.06.2022. Ex.P6 Patta and Chitta records stand in the name of the petitioner. Ex.P7 series of kist receipts also disclose payment of land revenue by the petitioner. The documentary evidence produced by the petitioner remains unshaken.

III. Though the 1st respondent has contended that the sale deed was only a nominal transaction and that the property continued to remain in the possession of the 2nd respondent, no documentary evidence whatsoever has been produced to substantiate such contention. Mere allegations of collusion or nominality cannot displace the legal presumption attached to a registered sale deed. It is well settled that a registered conveyance operates to transfer title unless it is set aside or declared invalid by a competent Court.

IV. It is pertinent to note that the attachment before judgment was ordered on 06.03.2023 and effected on 24.04.2023, whereas the petitioner had purchased the property under Ex.P5 on 16.06.2022, several months prior to the attachment. Therefore, on the date of attachment, the property had already stood transferred in favour of the petitioner. No material has been placed before this Court to show that the sale deed in favour of the petitioner has been cancelled, declared void or otherwise invalidated.

V. Order XXXVIII Rule 10 CPC provides that an attachment before judgment shall not affect the rights existing prior to the attachment of persons who are not parties to the suit. The petitioner, being a purchaser under a registered sale deed prior to the order of attachment, has acquired rights independent of the defendant. Such rights cannot be defeated by a subsequent attachment before judgment.

VI. In the absence of any convincing evidence to establish fraud, collusion or a sham transaction, this Court finds that the petitioner has successfully proved her title and possession over the petition schedule property. Consequently, the attachment before judgment effected subsequent to her purchase cannot bind the property purchased by her. Accordingly, this Court holds that the petitioner is entitled to the relief sought.

7. Result:

In the result, this petition is allowed. The order of attachment before judgment passed in I.A.No.1 of 2022 in O.S.No.288 of 2022 and effected on 24.04.2023, insofar as it relates to the petition schedule property, is hereby raised and vacated. The office of this court is directed to communicate a copy of this order to the concerned Sub-Registrar for making necessary entries in the relevant records maintained pursuant to the attachment order. No costs.

Directly dictated to the Steno – typist, typed by her, corrected and pronounced by me in open court this the 17th day of June 2026.

**Additional District Judge,
Dindigul**

Annexures :-**List of witness on the side of the petitioner :-**

PW1 - Archana Devi

List of Exhibits on the side of the petitioner :-

Ex.No	Date	Particulars of Documents	Nature
Ex.P1	12.04.1993	Sale deed executed by Venkidusamy and others in favour of S.Sakthiganesh.	Original
Ex.P2	10.11.1995	Sale deed executed by S.Sakthiganesh in favour of S.P.Mottaiyandi.	Computer generated certified copy
Ex.P3	27.04.2011	Registered General Power of Attorney executed by Veerasinnammal and others in favour of M.Manikandan.	Certified copy
Ex.P4	20.01.2015	Sale deed executed by M.Manikandan in favour of S.Velankanni.	Computer generated certified copy
Ex.P5	16.06.2022	Sale deed executed by S.Velankanni in favour of the petitioner namely Archana Devi.	Computer generated certified copy
Ex.P6	--	Patta No.12678 and 10(1) Chitta standing in the name of the petitioner.	Computer generated certified copy
Ex.P7	--	Kist (Land Revenue Tax) receipts paid by the petitioner in respect of the petition schedule property (Nos.2)	Original

List of witness on the side of the Respondents :-

RW1 – Karuppusamy

List of Exhibits on the side of the Respondents : Nil

**Additional District Judge
Dindigul**