

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DINDIGUL.**

**PRESENT : Thiru. P. Saravanan, B.L.,**

**ADDITIONAL DISTRICT JUDGE, DINDIGUL.**

**Friday, the 17<sup>th</sup> Day of February 2023**

**I.A. No.1/2022**

**in**

**O.S. No.295/2022**

**T. Kannan**

**... Petitioner/Plaintiff**

**-Vs-**

**1. B. Sarojini**

**2. B. Mythili Rajalakshmi**

**... Respondents/Defendants**

This petition came up on 17.02.2023 before me for final hearing in the presence of Thiru. S. Nagaraj, Advocate for the petitioner and of Thiru. P. Rajarajan, Advocate for the respondents and after having heard the arguments of both side and on perusal of records this Court delivers the following :

**ORDER**

Petition filed Under Order 38 Rule 5 of C.P.C., seeking to attach the petition mentioned properties before Judgment.

2. Heard Both Side. Petitioner is the plaintiff in the above suit. Plaintiff filed the above suit for recovery of money based on pro-note dated 01.10.2020. Pending suit, attachment before judgment the present application has been filed on the ground that the respondents/defendants are trying to alienate the properties. The respondents filed detailed counter by stating that the respondents have not borrowed the suit amount from the petitioner and the suit properties already mortgaged in favour of Raja on 04.11.2019. To grab the suit properties, the said Raja colluded with the petitioner, and create the suit document and filed the suit. Further the respondents have no intention to sell the petition mentioned properties.

3. Ex. P.1 is the copy of title deed, Ex. P.2 is a copy of encumbrance certificate, which were marked to show that the respondents are having interest over the petition mentioned properties. In the said encumbrance certificate mortgaged deed which has been referred by the respondents has been mentioned. During the course of arguments, respondents filed undertaking affidavit by stating that they will not alienate the petition mentioned properties. Furthermore, in view of the undertaking given by the respondents, it is not necessary for ordering attachment, hence, the petitioner is not entitled the relief as prayed for and answer the issue accordingly.

In the result, undertaking affidavit filed by the respondents/defendants is recorded. Petition is closed. No cost.

This Order is dictated to my Steno–Typist directly and typed by her in the computer, Printed in the Printer, corrected and pronounced by me in the open court, on this the 17<sup>th</sup> day of February 2023.

Additional District Judge,  
Dindigul.

**Exhibits on the side of the Petitioner**

1. Ex. P.1      13.12.2004      Copy of Partition deed.
  
2. Ex. P.2      02.08.2022      Copy of Encumbrance Certificate.

Additional District Judge,  
Dindigul.

**Additional District Court,  
Dindigul.**

**I.A. No.1/2022**

**in**

**O.S. No.295/2022**

**ORDER : FAIR**

**Dated : 17.02.2023**