

**IN THE COURT OF THE PRINCIPAL SUB JUDGE, PALANI**

**Present : Thiru. J. Jeya Suthahar, M. Sc., L.L.M.,  
Principal Sub Judge, Palani.**

**Dated this the 8<sup>th</sup> day of June 2023, Thursday**

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

**in**

**O.S. No.3/2022**

V. Sekar

--- Petitioner/Plaintiff

/Vs/

P. Bangarusamy

---Respondent/Defendant

This petition came before me for final hearing on 25.04.2023 in the presence of Thiru. K. Ganesan, Learned Counsel for the petitioner/plaintiff, Thiru.M.Senthil Kumar, Learned Counsel for the respondent/defendant and upon hearing the arguments on both side and upon perusal of records and having stood over for consideration till this date, this court doth delivers the following:

**ORDER**

This petition is filed by the petitioner/plaintiff under Order XXXVIII Rule 5 and Sec.151 of CPC to pass an order of attachment before judgment in respect of the petition scheduled property.

**2. The averments in the petitioner's affidavit filed in support of the petition in brief as follows:**

The petitioner is the plaintiff in the suit. The petitioner has filed the suit for recovery of a sum of Rs.2,42,000/- from the respondent. The respondent is having several debts apart from the suit debt. The respondent is attempting to alienate the

petition schedule property belonging to him with an intention to defraud and delay the suit debt. The petitioner came to know about it directly and through his friend Shanmugavel and he asked the respondent to make some provision for the suit debt. But the respondent refused for the same. If the respondent alienates the property then it will become impossible to recover the amount from the respondent. Hence the petition schedule property has to be attached before judgment.

**3. The averments in the counter statement of the respondent in brief as follows:**

The respondent is the defendant in the suit. The respondent did not borrow any loan from the plaintiff on the suit promissory note and he did not execute any promissory note. The signature in the suit promissory note does not belong to the respondent. Further the petition schedule property does not belong to the respondent. The petitioner has not filed any documents to prove the same. The petition for attachment of the property which is not belonged to the respondent is not maintainable in law. The petitioner has not followed any legal principles for attachment of the property. Hence the petition is liable to be dismissed.

4. Both side no oral evidence is adduced in this petition. On the side of the petitioner Ex.P1 and Ex.P2 are marked as documentary evidence. On the side of the respondent no document is marked.

5. The point for decision in this petition is whether this petition deserves to be allowed or not?

6. **Point :**

According to the petitioner, the above suit has been filed by him for recovery of the suit promissory note amount with interest and costs from the respondent and that the respondent is making attempts to alienate the petition schedule property belonging to him with an intention to defraud the suit debt and that hence the property has to be attached. The copy of the extract from the town survey land register in respect of the property is marked as Ex.P1 and the copy of EC is marked as Ex.P2. But on perusal of Ex.P1 document and the property described in the petition schedule it is seen that the property is situated in Dindigul Town, Dindigul District which is not coming within the jurisdiction of this Court. The immovable property which is not situated within the jurisdiction of this Court cannot be attached under Order 38 Rule 5 CPC. The petitioner can work out his remedy to attach the property scheduled in the petition by adopting the proper procedure established under law. Hence considering the above facts and circumstances of this case and in the interest of justice this court is of the view that the property scheduled in the petition cannot be attached before judgment and the petition deserves to be dismissed.

7. In the result, this petition is dismissed. No costs.

Dictated to the the steno-typist directly and computerized and printed by her and pronounced by me in the open court on this the 8<sup>th</sup> day of June 2023.

**Principal Sub Judge,  
Palani.**

/4/

**Petitioner side witnesses** : NIL

**Petitioner side documents** :

1. Ex.P1 - 11.12.2021 - Xerox copy of the extract from the town survey land register in respect of the property
2. Ex.P2 - 13.12.2021 - Copy of EC.

**Respondent side witnesses and documents**: NIL

**Principal Sub Judge,  
Palani.**

Additional Sub Court, Palani

I.A.No.304/2022

in

O.S.No.242/2022

\_\_\_\_\_ Order

Date : 09.12.2022

**IN THE COURT OF THE ADDITIONAL SUB JUDGE, PALANI**

**Present : Thiru. J. Jeya Suthahar, M. Sc., L.L.M.,  
Additional Sub Judge, Palani.**

**Dated this the 9<sup>th</sup> day of December 2022, Friday**

**I.A.No.304/2022**

**in**

**O.S. No.242/2022**

Anandhakrishnan, S/o. Palanisamynaicker, aged about 48 years, residing at RMTC Colony, Pachalanaickanpatti, Kanakkanpatti Post, Palani Taluk, Dindigul District.

--- Petitioner/Plaintiff

/Vs/

Vijayakumar, S/o. Rajapandinadar, aged about 46 years, residing at D.No.5/4, Avvaiyar street, Kinathukadavu Village, Pollachi Taluk, Coimbatore District.

---Respondent/Defendant

This petition is filed by the petitioner/plaintiff under Order XXXVIII Rule 5 and Sec.151 of CPC to pass an order of attachment before judgment in respect of the petition schedule property.

**Date of Presentation : 13.07.2022**

**Taken on file : 13.07.2022**

This petition came before me for final hearing on 25.11.2022 in the presence of Thiru. R. Marappan, Learned Counsel for the petitioner/plaintiff, and the respondent/defendant being remained exparte and upon hearing the arguments on the side of the petitioner and upon perusal of records and having stood over for consideration till this date, this court doth delivers the following:

**DECRETAL ORDER**

1. It is ordered that this petition is dismissed.

2. It is further ordered that there is no costs.

**DESCRIPTION OF PROPERTY**

Given under my hand and seal of this Court on this the 9<sup>th</sup> day of  
December 2022.

**Additional Sub Judge,  
Palani.**