

IN THE COURT OF THE PRINCIPAL SUB JUDGE, PALANI

**Present : Tmt.K.Renugadevi, LL.M.,
Principal Sub Judge, Palani.**

Dated this the 01st day of July 2025, Tuesday

I.A.No.1/2025

in

O.S.No.143/2024

K.Angamuthu

... Petitioner/Plaintiff

/Vs/

1. Subha

2. Minor. Selva Shastia

3. Minor. Magizhan

(Minor defendant Nos. 2 and 3 represented
through their Mother, Guardian, 1st defendant
Subha)

4. Saraswathy

... Respondents/Defendants

This petition came up before me for final hearing on 26.06.2025 in the presence of Mr.T.Ilangao, S.Saravanakumar and Mrs.N.Priyankagandhi, learned Counsels for the Petitioner/Plaintiff, Mr.N.D.Sivaguru, learned Counsel for the respondent Nos.1 to 3, 4th respondent remained exparte in the suit 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 38 Rule 5 and Section 151 of Civil Procedure Code to attach the petition mentioned property before Judgment.

1. The petitioner is the plaintiff in the suit has filed this application to attach the petition mentioned property stating that one deceased Anandkumar, who is the husband of the 1st defendant, father of the defendant Nos. 2 and 3 and son of 3rd defendant has borrowed a sum of Rs.5,00,000/- from the plaintiff on execution of pronote and he has not repaid the amount as agreed. In the meantime he died leaving behind the defendants as his legal heirs on 04.01.2024 and so the plaintiff has filed the present suit for recovery of money against this defendants. The defendants are trying to alienate the property to defraud and delay the claim of the petitioner if any decree is passed in favour of him and so sought to allow this application.

2. The respondent Nos. 1 to 3 filed counter stating that the allegation that Anandkumar borrowed a sum of Rs.5,00,000/- from the plaintiff and executed pronote on 30.11.2022 and after the death of Anandkumar the plaintiff demanded the amount from the legal heirs of Anandkumar are not true and the said Anandkumar has not borrowed any amount from the plaintiff rather the signature of Anandkumar has been forged in the promissory note. And it is also admitted that the original sale deed is with the plaintiff and in such situation the defendants cannot encumber the property and the facts that the defendants are going to encumber the property to defraud the plaintiff is not true and so sought to dismiss this petition.

3. Heard. Record Perused.

4. It is reported that the original sale deed is with the petitioner/plaintiff and the same is not denied by the petitioner/plaintiff counsel and plaintiff himself found to have admitted the same in his affidavit.

5. Considering the fact that the suit is filed as against the legal representatives of deceased Anand Kumar, who alleged to have borrowed money from the plaintiff and the same is denied by the defendants that the signature in the pro-note is not that of the deceased Anandkumar and contended that the signature is forged and in respect of the same police complaint has been given against the plaintiff and proper reply had been given by the defendants to the plaintiff for the legal notice sent by him. As there is no prima facie case, and also no material that the respondents are going to sell the property, this court is not inclined to allow this petition. Moreover the prayer of attaching the property for the alleged loan amount is not automatic as per the settled proposition of law, unless the said relief is immediate and necessary one. But no such urgency elucidated hence this petition is dismissed.

In the result, this petition is dismissed with cost.

Directly handwritten by the Officer and the same was computerised by Stenotypist, corrected and pronounced by me in the open Court, on this the 01st day of July 2025 .

sd./K.Renugadevi,
Principal Sub Judge,
Palani.

Both side witnesses and documents : Nil

sd./K.Renugadevi,
**Principal Sub Judge,
Palani.**

**Principal Sub Court,
Palani.
I.A.No.1/2025
in
O.S.No.143/2024
Fair/Draft Order
01.07.2025.**