

IN THE COURT OF II ADDITIONAL DISTRICT & SESSIONS JUDGE,
ARAKKONAM, RANIPET DISTRICT.

Present: Tmt.K.S.Jayamangalam, M.L.,
II Additional District & Sessions Judge,
Arakkonam.

Tuesday the 23rd day of June 2026.

I.A.No.1/2025 in O.S.No.138/2025

K.Sujatha

...Petitioner/Plaintiff

/vs/

D.Johnson Devasudhagar

...Respondent/Defendant

This petition came up before me on 17.06.2026 for final hearing in the presence of Advocates Thiruvallargal K.Thiyagarajan & K.Anbalagan appearing for the Petitioner and Advocates Thiruvallargal S.Tamilvanan & A.Manikandan appearing for the respondent and after hearing the arguments of both sides, upon perusing the entire case records and the case having stood over for consideration till this day, this court delivered the following

ORDER

The petitioner is the plaintiff has filed this petition under order 38 Rule 5 of C.P.C to grant an order of attachment before Judgment in respect of petition mentioned property pending disposal of the suit.

2. Brief of affidavit runs as follows:-

The petitioner/plaintiff has filed this suit against the respondent/defendant for recovery of money. The respondent/defendant

borrowed a sum of Rs.9,50,000/- on 04.11.2023 from the plaintiff for his family expenses and real estate business and executed a promissory note on the same day in favour of the plaintiff agreeing to repay the same with interest @24% p.a. Further the defendant surrendered two original immovable property document to the plaintiff for security purpose. The defendant has not paid any interest along with principal amount towards the said promissory note. Hence, the plaintiff issued a legal notice to the defendant on 24.07.2025 but he did not give any proper reply for the said notice. The defendant had two immovable properties and he had already surrendered to the plaintiff for the security purpose. The said documents value is less than the amount borrowed by the defendant for the balance pendency amount or attachment before judgment of the two surrendered documents properties. Moreover, the defendant is trying to sell the immovable surrendered documents properties to some third parties. Unless this petition is allowed, the petitioner/plaintiff will be put to great loss and hardship.

3. Brief of counter filed by the respondent runs as follows:-

This respondent denied the entire averments made in the affidavit except those that are specifically admitted herein. The true fact is that the defendant borrowed a sum of Rs.5,00,000/- only from the petitioner on 08.11.2023 and not Rs.9,50,000/- as alleged in the plaint. At the time of granting loan, the petitioner obtained his signature in two blank Non-Judicial stamp papers and also three blank signed Syndicate Bank Cheques from his friend namely R.Vijayabharati who stood as a guarantor for this respondent. The petitioner has been blackmailing the respondent and his friend by

withholding these blank signed documents and cheques. From December 2023 to November 2025 this respondent has been regularly paying interest at Rs.20,000/- per month through G-Pay and cash. At the time of loan, this respondent has handed over his house property documents to the petitioner as security. The market value of the property covered by these documents is approximately Rs.50,00,000/-. This respondent requested the petitioner to reduce the interest to 1% per month. The petitioner's refusal forced this respondent to borrow elsewhere to maintain monthly payments. This respondent was unable to manage these payments for the last four months due to his extreme financial strain. The petitioner has failed to provide any evidence of an attempt to alienate property with intent to defraud the respondent. Hence, the petition has to be dismissed with costs.

4. No oral or documentary evidence was let in by both sides.

5. **The Point for consideration:**

1) Whether the petition is to be allowed or not?

6. **POINT.**

The petitioner is the plaintiff filed this petition to grant an order of Attachment Before Judgment of the schedule mentioned property morefully described in the petition. The respondent/defendant borrowed a sum of Rs.9,50,000/- from her and thereafter he failed to repay the same either the principal or the interest. The petitioner/plaintiff sent a Legal notice thereafter also he did not come forward to repay the same. Now the

respondent/defendant is attempting to sell the immovable properties and if the same is allowed she cannot recover the suit amount from him.

7. By way of reply, the respondent/defendant's side argued that he borrowed only a sum of Rs.5,00,000/- from the petitioner/plaintiff on 08.11.2023 and not Rs.9,50,000/- on 04.11.2023 as alleged by him. At the time of granting the loan the petitioner/plaintiff obtained his signature on two blank Non-Judicial stamp papers and received three blank signed cheques from his friend who stood as a guarantor. From December 2023 to November 2025 he has been regularly paying the interest of Rs.20,000/- per month via G-pay and Cash. At the time of availing the loan the respondent/defendant handed over his house property documents towards security and he is having the title deeds of him. The respondent/defendant requested him to reduce the interest however he did not come forward to the same. The petitioner/plaintiff has failed to establish the ingredients of Order 38 Rule 5 of CPC therefore the present petition is liable to be dismissed.

8. After hearing the arguments of both sides, the petitioner/plaintiff filed the suit for recovery of money based on the pro-note dated:04.11.2023. According to the petitioner/plaintiff, the respondent/defendant received a sum of Rs.9,50,000/- on 04.11.2023 and executed a suit promissory note in her favour and promised to repay the same with interest at the rate of Rs.2/- for every Rs.100/- every month. The respondent/defendant surrendered two immovable properties document to her for security purpose. Thereafter, the respondent/defendant was reluctant to repay either the principal or the interest. Finally, she sent a

Legal notice to the respondent/defendant and the same was returned as “Unclaimed”. Left with no other option the petitioner/plaintiff filed the present suit along with the above petition. The respondent/defendant’s side contended that he borrowed only a sum of Rs.5,00,000/- from her and not Rs.9,50,000/- as alleged by her. The respondent/defendant has been periodically paid the interest to the tune of Rs.20,000/- per month via G-pay and Cash. The petitioner is having his parent documents of the petition mentioned properties while so the allegation made by the petitioner/plaintiff that he is trying to sell the same to third parties is absolutely false. It is also contended that the petitioner/plaintiff has failed to fulfill the conditions stipulated under Order 38 Rule 5 of CPC.

9. The petitioner/plaintiff says that the respondent/defendant borrowed Rs.9,50,000/- whereas the respondent/defendant disputed the amount and stated that only a sum of Rs.5,00,000/- was received from her. Both the parties accepted that while receiving the loan amount from the petitioner/plaintiff, the respondent/defendant handed over the original documents to him. According to the petitioner/plaintiff, after receiving the principal amount of Rs.9,50,000/- the respondent/defendant did not come forward to pay the principal or the interest hence, a pre-suit notice was issued to the respondent/defendant and the same was returned as “Unclaimed”. The respondent/defendant having gained knowledge about the Legal notice sent by the petitioner/plaintiff neither he approached the petitioner/plaintiff nor settled the suit amount. The respondent/defendant has stated that he has been paying the monthly interest of Rs.20,000/- but to substantiate the same

he has not produced a piece of paper before this court. The petitioner/plaintiff has clearly averred in the petition that the respondent/defendant is trying to sell the petition mentioned properties if the same is permitted he cannot recover the suit amount from him. Just because the property documents are handed over to the petitioner/plaintiff, it does not mean that the respondent/defendant cannot sell the properties mentioned in the petition. The respondent/defendant's side has not produced any materials in support of his contention. If the schedule mentioned properties are sold to third parties then the petitioner/plaintiff cannot enjoy the fruits of the decree. The petitioner/plaintiff has proved the ingredients of Order 38 Rule 5 of CPC unless the present petition is allowed and the petition mentioned properties are attached before judgment the petitioner/plaintiff will be put to serious loss and hardship. In view of the above discussion, the present petition is liable to be allowed.

In the result, the respondent/defendant is directed to furnish security for the suit claim on or before 04.07.2026 failing which the petition mentioned properties shall be attached. Call on 06.07.2026.

Dictated by me to the Steno-Typist, typed by her directly to my dictation in computer and print taken out, corrected and pronounced by me in open court, this the 23rd day of June 2026.

II Additional District & Sessions Judge,
Arakkonam.

Both sides witness and exhibits: Nil.

II Additional District & Sessions Judge,
Arakkonam.