

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.

Friday the 27th day of February 2026.

I.A.No.103/2024 in O.S.No.151/2024

A.Gopal

...Petitioner/Plaintiff

/vs/

K.Subramani

...Respondent/Defendant

This petition came up before me on 19.02.2026 for final hearing in the presence of Advocates Thiruvallargal S.Gopalakrishnan & R.Balamurugan appearing for the Petitioner and Advocates Thiruvallargal K.N.Arumugam & A.Chandrasekaran 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 direct the respondent/defendant to furnish security for the suit amount, failing which attach the petition mentioned property before judgment.

2. Brief of petition runs as follows:-

The petitioner/plaintiff has filed this suit against the respondent/defendant for recovery of money based on the sale agreement. The respondent/defendant is the absolute owner of the suit schedule mentioned properties. The respondent/defendant intend to sell the said property to the for a sum of Rs.41,74,500/- i.e., Rs.16,500/- percent and the petitioner/plaintiff intend to purchase the same. The respondent/defendant had executed an unregistered sale agreement on 02.01.2013 in favour of the petitioner/plaintiff after receiving a sum of Rs.5,00,000/- as advance. In the said agreement the balance amount of Rs.36,74,500/- to be paid by the petitioner/plaintiff within 5 months from the date of sale agreement. Since from 02.02.2013 itself the petitioner/plaintiff continuously demanding the respondent/defendant to receive the balance sale consideration and execute the sale deed in his favour. But the respondent/defendant used to give evasive reply and he has not come forward to register the sale deed in favour of the petitioner/plaintiff. The respondent/defendant activities are illegal and unwarranted under the Law. The petitioner/plaintiff is always ready and willing to perform his part of contract. Now the respondent/defendant is making speedy arrangement to sell the petition mentioned properties to third party to defraud the petitioner/plaintiff's right over the said properties. The respondent/defendant is not ready to perform his part of contract. The petitioner/plaintiff issued a Legal notice on 03.08.2024 to the respondent/defendant thereby demanding to pay the advance amount given by him with interest @ 24% p.a. But the respondent/defendant wantonly refused to receive the said notice. Hence, left with no other option the

petitioner/plaintiff has filed this suit to recover the money based on the sale agreement. Unless, the petition is allowed the petitioner/plaintiff would be put to great loss and hardship.

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

This petition is not maintainable either in law or on facts and the petitioner/plaintiff is put to strict proof of the allegations made in the petition. This respondent/defendant denied all the averments mentioned in the affidavit. This respondent/defendant stated that his debts were increasing day by day hence he has no other alternative way than to sell away the pliant schedule properties to one S.Thulasiraman, Kumpinipet Village under a Registered Sale deed dated: 05.10.2024 and now he is in possession and enjoyment of the petition mentioned properties. Before receiving the suit summon and notice in the above petition this respondent/defendant sold the properties to said Thulasiraman hence the petition mentioned properties has been transferred for valid consideration hence the petition mentioned properties cannot be attached. This respondent/defendant is not entitled to furnish the petition mentioned properties as security for suit amount as he is no more the owner of the same as stated supra. Hence, the petition is to be dismissed with costs.

4. **The Point for consideration:**

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

5. **POINT:-**

The petitioner is the plaintiff filed the suit for recovery of money based on the Unregistered Sale Agreement dated: 02.01.2013. The respondent/defendant has agreed to sell the petition mentioned properties for a sale consideration of Rs.41,74,500/- to the petitioner/plaintiff. While executing the sale agreement the petitioner/plaintiff paid a sum of Rs.5,00,000/- as an advance and agreed to pay the balance sale consideration within a period of 5 months i.e., on or before 03.06.2013. From 02.02.2013 onwards the petitioner/plaintiff has been continuously demanding the respondent/defendant to execute the sale deed in favour of him, but the respondent/defendant used to give evasive reply and has not come forward to register the sale deed in favour of him hence he has filed the present suit for recovery of money.

6. By way of reply, the respondent/defendant's side argued that the above petition is not maintainable either in law or on facts and the same is liable to be dismissed. The respondent/defendant debts were increasing day by day and he has no other alternative to sell away the petition mentioned properties to one S.Thulasiraman of Kumpinipet Village under a Registered Sale deed dt; 05.10.2024 before receiving the summons and notice in the above petition and now he is in possession and enjoyment of the petition mentioned properties. The respondent/defendant is no more the owner of the petition mentioned properties. The petitioner/plaintiff is not entitled to get the claim as prayed for by him. Hence prayed to dismiss the above petition.

7. After hearing the arguments of both sides, there is no dispute between the parties with regard to the execution of Sale Agreement and the receipt of Rs.5,00,000/- from the petitioner/plaintiff by the respondent/defendant towards the advance amount. After the execution, the petitioner/plaintiff agreed that he would pay the balance sale consideration within a period of five months and get the Sale deed registered in his name. The petitioner/plaintiff's side argued that the respondent/defendant is trying to alienate the petition mentioned properties to third parties hence the petition mentioned properties may be attached before passing judgment in the suit. The respondent/defendant has fairly conceded in his counter that he sold the petition mentioned properties to one S.Thulasiraman on 05.10.2024. The respondent/defendant has stated that before receiving summons in the suit and notice in the I.A, the sale deed was executed. The petitioner/plaintiff filed the suit on 20.08.2024 and the first hearing date was 23.09.2024. The sale deed was executed on 05.10.2024 therefore after gaining the knowledge of filing the suit by the petitioner/plaintiff only the respondent/defendant sold the same to one S.Thulasiraman. The respondent/defendant's side argued that based on the Unregistered Sale Agreement the petitioner/plaintiff cannot seek any relief and the suit was filed after a period of 11 years from the date of execution of the sale agreement therefore he is not entitled to get the relief as sought for by him. There is no doubt that the sale agreement is an unregistered one which was executed in the year 2013. The petitioner/plaintiff filed the suit for recovery of money and not for the relief of Specific Performance. The respondent/defendant has not asked the execution of the sale agreement. The validity of the sale agreement will be decided in the main suit and it is pre-mature to decide the evidentiary value

of the sale agreement. As per the sale agreement only the petitioner/plaintiff filed the present suit therefore, the respondent/defendant hurriedly sold the petition mentioned properties to one S.Thulasiraman when the suit was pending on the file of this court. Therefore, the stand taken by the respondent/defendant that before filing the suit the sale deed was executed in favour of S.Thulasiraman cannot be accepted. In order to protect the interest of the petitioner/plaintiff the petition mentioned property has to be attached. In view of the facts and circumstances of the case, the petitioner/plaintiff is entitled to get the relief as prayed for by him.

In the result, this petition is allowed and the petition mentioned property of the respondent/defendant is to be attached subject to the encumbrance. Attachment batta in three days. Call on 18.03.2026.

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 27th day of February 2026.

II Additional District & Sessions Judge,
Arakkonam.

Both sides witness and exhibits: Nil.

II Additional District & Sessions Judge,
Arakkonam.