IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PERIYAKULAM, THENI DISTRICT.

Present: Thiru. C.SANKAR, B.A. M.L. P.G.D.C.F.S.,
Additional District and Sessions Judge,
Periyakulam, Theni District.

Friday, the 27th day of February, 2026.

IA.No.01/2025
- in -
OS.No.169/2025

Muthuraj … Petitioner/ Plaintiff

// Vs. //

Nanthini … Respondent/ defendant

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This petition came up for final hearing before this Court on 16.02.2026, in the presence of Mr.P.Perumal, Learned Counsel for the petitioner and Mr.P.Vadivelan, Learned Counsel for the respondent and upon perusing the Petition, Counter and Documents and upon hearing both side arguments and having stood over for consideration till this day, this Court delivered the following…

ORDER

The petitioner has filed this petition under Section 151 and Order 38, Rules 5 of the Civil Procedure Code, requesting the respondent to furnish security within a specified period of time, failing which the court may ordered to attachment of the property in the petition before the judgment.

<u>**Averments made in the Petition in brief is as follows**</u>:

2. This petitioner is the plaintiff in the original suit. The petitioner/plaintiff has also paid to the respondent a sum of Rs. 10,00,000/- on 01.12.2024 for the respondent's family expenses. The respondent and her husband jointly borrowed Rs. 10,00,000 to start a woodworking mill and promised to repay the said loan amount within two months. On 07.12.2024, they mortgaged the petitioner's gold jewellery for Rs. 6,90,000 with a financial institution called Lakshmipuram Muthoot Fin Corp Limited and the remaining amount, including Rs. 3,10,000 which they had kept as a reserve for the business, totaling Rs. 10,00,000, and received a total of Rs. 10,00,000 from the petitioner on the same day in the presence of witnesses. On the above amount, they promised to pay interest at the rate of Rs.1.5 per month on Rs. 1000,000/- per month. In support of that, the respondent gave a promissory note for Rs. 1000,000/- in the name of the petitioner on 07.12.2024 itself. The Respondent had written and signed the promissory note, and since the respondent had not paid any interest to the petitioner till the date. The petitioner had requested to pay the principal and interest amounts of the said promissory note in person on 11.03.2024, and had told the petitioner that he would repay it by 15.03.2025. The respondent had lodged a false complaint that the petitioner was demanding money from the Respondent at the Periyakulam Vadakarai police station, and that the respondent was deceiving him by giving many unbelievable reasons and was delaying time with bad intentions to deceive and defraud him. Apart from the property mentioned in this petition, there was no other movable or immovable property in the name of the respondent. In this situation, the petitioner came to know that the respondent had sold the petition schedule property to another person and was planning to go abroad and settle down. Therefore, the Respondent was ordered to pay the Petitioner a sum of Rs. 11,13,500/-. The petitioner has filed this petition seeking an order to furnish security of Rs.11,13,500/- Failing that, the property mentioned in the petition should be attached before the judgment.

<u>Written Statement filed by the respondents/Defendants, which was adopted as a counter to this petition.</u>

3. All the facts found in the petition are false. The relief sought in the petition is not available to the petitioner. The petitioner was engaged in the business of a broker. On the advice of A. Rajappa, the owner of the property mentioned in the petition. The petitioner and the respondent's husband Siva were taken to Rajappa, the owner of the property, and on 28.04.2024, the respondent and Rajappa executed a sale agreement. As per the above sale agreement, the property was registered in the name of the respondent on 22.08.2024 by writing a sale deed. Further, in support of the additional amount, the respondent's cheques and the cheques of the respondent's husband were only signed, and Rajappa received them only by signing the unfilled pro-notes. As requested by Rajappa, the owner of the property, the payment was made through the respondent and the respondent's bank account in the name of Rajappa, in the name of the petitioner and in the bank account of Vignesh, who had signed the sale deed as a witness. Rajappa received the outstanding amounts in several installments from the respondent and the respondent's husband. They refused to return the promissory notes, cheques and the original sale deed received from the respondent. Furthermore, the fact that the petitioner, received the promissory note for his responsibility and fraudulently filled it in the name of the petitioner and filed the case is a breach of trust.

In fact, the petitioner does not have any sources to give a loan to the respondent. The plaintiff does not have enough gold jewellery to mortgage for Rs. 9,00,000/-. He has deliberately shown the gold jewellery as if he had taken a loan from his relatives and pawned it. The above incident is also a planned incident. The truth is that the jewellery that the petitioner has pawned in the suit is about 15 sovereigns, and it belongs to the respondent. In order to pay the outstanding amount due to Rajappa, Rajappa, the petitioner and Vignesh, the above-mentioned persons, threatened the respondent with the jewellery and took it away, and in June 2024, they pawned it in the name of the petitioner at the Muthoot jewellery Pawn Shop in

Lakshmipuram and received Rs. 6,40,000/- from the petitioner's account, took it in their hands and gave it to Rajappa. Further, in December 2024, the petitioner, without the knowledge of the respondent, obtained an additional loan of Rs. 41,000/- from the same Muthoot Bank through the top-up method on the jewellery belonging to him and gave it to Rajappa. The interest due on this jewellery was also paid from the bank account of the respondent's husband to the loan account of the petitioner in Muthoot Bank. Thereafter, the petitioner, without the knowledge of the respondent and her husband, took over the jewellery belonging to the respondent in Muthoot Bank through a take-over at the Punjab National Bank branch in Periyakulam. Punjab National Bank itself paid the money directly to Muthoot Bank and returned the jewellery in the name of the petitioner, and without the knowledge of the respondent and the respondent's husband, pledged an additional loan amount of Rs. 7,60,000/- in the name of the petitioner and kept the additional amount without giving it to Rajappa or the respondent, thereby deceiving and defrauding the respondent. Therefore, it is prayed that the petition of the petitioner be dismissed with costs of the respondent.

4. No documents or oral evidence let by both sides.

5. **Point for determination**:

1. Whether this petition is allowed or not **?**

6. Heard perused the records. In the 2nd paragraph of the petitioner's affidavit, on 01.12.2024, the respondent and her husband jointly requested a loan of Rs. 10,00,000 for his family expenses and to operate a wood working mill and promised to repay the said loan within two months. Also agreed to that and on 07.12.2024, petitioner pawned his gold jewellery for Rs. 6,90,000 with a financial institution called Lakshmipuram Muthoot Fin Corp Limited and the remaining amount, including Rs. 3,10,000 which petitioner kept as a reserve for his business,

made a total of Rs. 10,00,000 on the same day in his wood working shop and the respondent received it in the presence of witnesses. The respondent has written and signed a promissory note in my name on 07.12.2024 and in the presence of witnesses, stating that the respondent has no other movable or immovable property other than the property mentioned in the petition to realise the above amount, and that the respondent has sold the petition mentioned property to another person and is planning to settle abroad, and therefore, if the respondent sold the petition mentioned property, he will not be able to get the benefits of the judgment passed by this Court. Therefore, it is stated that the property mentioned in the petition should be attached before the judgment.

7. In the counter affidavit filed by the respondent, it is not mentioned in the objection that the petition mentioned property was not vested with this respondent and therefore the petition mentioned property cannot be attached before the judgment. Further, in the counter affidavit, it is stated that on 07.12.2024, the respondent has taken a loan of Rs. 10,00,000/- from the plaintiff and has not given any promissory notes or bonds to the plaintiff in support of the same. But the respondents have not submitted any evidence in this regard before the court.

8. The explanation under Order 38 Rule 5 of the Civil Procedure Code is as follows.

" 5. Whereas defendant may be called upon to furnish security for production of property:

(1) Where, at any stage of a suit, the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him -

(a) is about to dispose of the whole or any part of his property, or

(b) in about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court.

the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof."

As per the above, the respondent has failed to furnish the security to this petition. The respondent has not given undertake that not to alienate property and the petitioner has requested that the property be attached before the judgment, the petitioner will be able to avail himself of the benefit of the judgment that may be passed in the future in this case only if the judgment passed in this case is adverse to the petitioner.

9. Furthermore, if the judgment passed in this case is adverse to the petitioner, the respondent has the option of setaside the order passed before the judgment and taking action. However, if the petitioner's petition is not allowed, there is a situation where the petitioner himself may suffer great hardship and loss. Furthermore, this Court is trying to attach the property in the petition while the original suit is pending. In this suit, for the above reasons, this Court allows the petitioner's petition.

In the result, this the petitioner's petition is allowed without costs and the property mentioned in the petition be attached before the judgment. Attach by 27.03.2026. Batta in 3 days.

Dictated by me, directly typed by Steno-Typist into computer, corrected and pronounced by me in the open Court, this the **27th day of February, 2026**.

SANKAR Digitally signed by SANKAR Date: 2026.02.27 16:33:19 +0530

Additional District and Sessions Judge,
Periyakulam.

<u>Petitioner/Plaintiff side Witnesses and Documents</u>:	Nil.
<u>Respondent/Defendant side Witnesses and Documents</u>:	Nil.

SANKAR Digitally signed by SANKAR Date: 2026.02.27 16:33:27 +0530

Additional District and Sessions Judge,
Periyakulam.

Fair: Order

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Dated 27.02.2026.