

IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM

**PRESENT: Thiru.K. Yuvaraj, B.A.,B.L.,
Subordinate Judge, Palladam**

Friday of 04th July, 2025

**IA No.1/2023
in
OS No.146/2023**

Venkatesan

... Petitioner / Plaintiff

/Vs/

Karuppusamy

... Respondent / Defendant

This petition is coming on 19.06.2025 for final hearing before me in the presence of Thiru. P.P.Suresh Kumar,B.A.B.L., Advocate for the petitioner and Thiru.M.P.AbdulNazar,B.Sc.B.L., Advocate for the Respondents. Upon hearing both side arguments and on perusal of all connected material records and having stood over till this day for consideration, this court delivered the following..

ORDER

This application was filed by the Petitioner/Plaintiff direct the Respondent/Defendant to furnish the security to the suit claim and kindly order to attach the Petition mentioned property which is the movable property under Order XXXVIII Rule 5 of CPC.

2. The learned counsel for the Petitioner / Plaintiff argued that the plaintiff is doing business at Vadugapalayam and Respondent / Defendant is doing business and he is a friend of the Petitioner / Plaintiff, hence the Respondent / Defendant had requested and demanded a Sum of

Rs.3,00,000/- for his urgent family and business expenses on 10.12.2021 and borrowed a sum of Rs. 3,00,000/- in the presence of Sathiswaran and one Udayakumar and executed a demand promissory note and agreed to repay the same amount with interest at the rate of 12% per annum. Thereafter the defendant had not paid any interest so far. Hence the Petitioner / Plaintiff demanded the due amount with the respondent.

3. Finally on 10.04.2023 the Respondent and his wife issued cheque for a sum of Rs.3,48,000/- as a full settlement, but the said cheque was dishonored by the respondent bank. Meanwhile the Respondent / Defendant is having only movable property Auto bearing registration No.TN 78 S 7358 and he is trying to alienate the same. Hence this application to furnish security for the suit claim or to attach the said property.

4. Per contra, The learned counsel for the Respondent / Defendant filed a detailed counter that all allegations were denied as stated in the affidavit and plaint. Further for dishonor of cheque a criminal case was filed by the Petitioner / Plaintiff in STC No. 465/2024 and it is pending before the Learned Judicial Magistrate, Palladam, further as per law this petitioner is not entitled to attach the movable property. Hence prayed for dismissal.

II. Now point for consideration is whether this petition is allowed?

1. Heard both sides. Perused entire records. On careful perusal of records admittedly the Petitioner / Plaintiff filed this suit for Recovery of money as against the Respondent / Defendant in OS No.146/2023, further it is the case of Petitioner / Plaintiff that Respondent / Defendant had obtained a hand loan of Rs.3,00,000/- for his urgent family and business expenses thereafter executed a promissory note but the Respondent /

Defendant had not paid any interest so far, hence on request the Respondent / Defendant and his wife gave a cheque for a sum of Rs.3,48,000/- for full satisfaction, but the said cheque was dishonored by the respondent bank. Further on careful perusal of counter for the dishonor of cheque already a criminal case was pending in a STC. No.465/2024 before The Learned Judicial Magistrate, Palladam. Hence taking note of the fact that already a criminal case also pending between the parties concern for the said transaction and the subject property is a movable property. Taking note of all such facts the Petitioner / Plaintiff is not entitled for any relief from this court at this point of time, since it is a case of 2023 and Written statement was filed on the side of Respondent / Defendant and suit is ripe for trial and on the main suit itself for Recovery of money this court is of the considered view that this Petition is dismissed.

With this Observation this application deserves to be dismissed. No costs.

Dictated to the stenographer, transcribed and typed out by her, corrected and pronounced by me in open court this 04th July 2025.

Subordinate Judge,
Palladam.

Fair / Final Order

IA. 1/2023 in OS 146/2023

Date: 04.07.2025