

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,  
TIRUVANNAMALAI**

**PRESENT : Tr. B.C. GOPINATH, M.L.,**

**Additional District Judge,  
Tiruvannamalai.,**

Tuesday, the 25<sup>th</sup> day of March, 2025

**I.A.No. 1 / 2024 in O.S.No. 33 / 2024**

Gnanapriyanka

.... Petitioner / Plaintiff

/vs/

Ramalingam

.... Respondent / Defendant

This petition came before me for final hearing on 25.03.2025 in the presence of Thiru.D.Anbalagan, Advocate for the petitioner and Thiru. S. Lawrance, Advocate for the respondent and later the respondent set exparte and upon hearing the petitioner's side, and perusing the case records, this Court passed the following....

**ORDER**

This is a petition for attachment before the judgement under Order XXXVIII Rule 5 C.P.C

**Petitioner's case in brief:**

The petitioner is the plaintiff in the above suit. The petitioner has filed the above suit for the recovery of Rs. 28,68,630/- due under a promissory note and for costs. The respondent / defendant borrowed Rs. 25,00,000/- from the petitioner on 11.06.2022 agreeing to repay the same on demand with interest at the rate of 12% per annum. Despite repeated demands, the respondent failed to repay the debt. On the other hand, he is trying to alienate the suit property so as to defeat the interest of the petitioner. If the respondent alienates the suit property to any third parties, the petitioner will be put to irreparable loss and hardship. Hence the petition to attach the suit property.

2) The respondent / defendant remained absent and he was set ex parte.

3) During enquiry, no evidence oral or documentary was let in.

4) **Now the point for consideration is whether the suit properties can be attached before judgement?**

**5) Point:**

The Petitioner / Plaintiff in the above suit Gnanapriyanka has pressed into service order XXXVIII Rule 5 C.P.C for a direction to attach the suit properties as a measure of security for the decree that may be passed in her favour in the above suit. Her case is that on 11.06.2022, the respondent/defendant Ramalingam

borrowed a sum of Rs. 25 lakhs from her by executing the suit promissory note agreed to repay the same with 12% interest on demand. But however he neglected to pay as promised and therefore she laid the above suit for recovery of Rs. 28,68,630/- with subsequent interest and costs.

6) The petitioner alleges that the suit properties belong to the respondent Ramalingam and to support the same she has filed a copy of the Patta in No. 391 which shows that the property stands in the name of the respondent. The petitioner has further alleged that the respondent is attempting to alienate the property to 3<sup>rd</sup> parties with the intention of defeating the interest of the Petitioner / plaintiff.

7) The learned counsel for the petitioner submitted that the respondent had even visited the Sub Registrar Office concerned to register the suit properties with the idea of alienating it to 3<sup>rd</sup> parties. Coming to know about this, the petitioner gave a letter of protest to the Sub- Registrar concerned. However, it is only a temporary measure and the Sub Registrar has advised the petitioner to obtain an order of attachment from the court. Therefore, the petitioner is pressing for an attachment before judgment in order to safeguard his interest in the event of the suit being decreed in favour of the petitioner.

8) From the records, it is seen that the respondent was set exparte on 06.12. 2024 for not filing written statement. However in view of the orders passed in I.A.No.2/2025, the exparte order against the respondent / defendant was set aside and the suit is now in the stage of framing issues.

9) From the circumstances pointed out by the petitioner / plaintiff, it does appear that the respondent has been taking some steps to alienate the suit properties to some third parties. It goes without saying that if the respondent transfers the property in favour of some third parties, the petitioner would not be able to satisfy the decree, if any, passed in his favour. It has been reiterated in a catena of judgments that the power to pass an order of attachment before judgment should be exercised with extreme caution and circumvention, so that, it will not become a weapon of harassment in the hands of petitioner. But however, in the instant case, the petitioner has satisfied that the respondent is attempting to alienate the suit property to the petitioner's detriment. Therefore, this court finds that the ingredients required to pass an order of attachment under order 38 Rule 5 C.P.C has been satisfied by the petitioner.

10) The property sought to be attached are mentioned as 3 separate items in one vacant land. The value of the vacant sites are mentioned as 4,68,000/- and 6,54,000/- respectively. The value of a marriage hall with all fittings and electric

service has been valued at Rs. 57,60,000. The total value has been mentioned as Rs. 68,82,000/-. The property that is just enough to satisfy your decree should be attached. But however, in the description of the above property, it is seen that all the three properties lie in one piece of land. Hence, in the considered view of this court, the entire property can be attached subject to such orders that may be passed in future. To have a binding effect on the Petitioner / Plaintiff, she is directed to commence trial without any delay, failing which the order of attachment will be raised. The point is answered accordingly. Attach by 25.04.2025. Batta to be paid in a week.

In the result, the petition is allowed.

Dictated to the Steno-Typist of this Court, transcribed by her in computer, corrected and pronounced by me in open court, this the 25<sup>th</sup> day of March , 2025.

(Sd/- B.C.Gopinath),  
Additional District Judge,  
[Tiruvannamalai.](#)

