

2) Brief averments of the petition:

The petitioner is the plaintiff in the above suit. For a detailed and complete understanding of his case the plaint may be read as part and parcel of this affidavit.

The respondent is the permanent resident of the above mentioned address and that both the petitioner and the respondent are the relatives having known to each other for the past 20 years and above. He has been engaged in agriculture and allied activities for his livelihood and the respondent has been engaged in purchase of sugarcane from the farmers and selling the same to the sugar mills on a commission basis. The respondent is in the habit of getting debits on promissory notes from him often for his business purpose and also regularly used to repay the debits.

The petitioner/plaintiff constrained to file the present suit for recovery of a sum of Rs.12,27,134/- with subsequent interest. Even though the respondent has executed the suit pro notes for 12% of interest, he restrict his right and filing this present suit by claiming 9% of interest.

Thereafter the plaintiff several times requested the respondent to repay the principal and interest due under the promissory notes dated 20.12.2021, the respondent herein postponed the same under some pretext or other. Hence the petitioner constrained to issue registered legal notice to the respondent to repay

the principal with interest on 12.08.2023. The respondent wantonly evaded to repay the amount, the petitioner filed the suit for the recovery of the suit amount.

The respondent has been in possession and enjoyment of the schedule mentioned property as absolute owner. The respondent herein with a view to evade the liability, proposed to alienate the petition schedule mentioned property to 3rd parties one or two days. If the respondent is allowed to alienate the schedule mentioned property, he will not be in a position to recover the suit amount from the respondent herein. On the other hand no hardship will be caused to the respondent. Hence, prayed to allow this petition.

3) **The averments in the counter, in brief, are as follows:**

The petition filed on behalf of the petitioners to grant an order of attachment of the schedule mentioned property before the passing of judgment is not sustainable either in law or on facts and it deserved to be dismissed with the cost of this respondent.

This respondent denies all the allegations made in the affidavit filed in support of the petition save those that are specifically admitted herein and puts the petitioners to strict proof of the same. This respondent will file a detailed written statement in the above suit and the same may be read as part and parcel of this counter.

He has mortgaged the petition mentioned properties with the Cholamandalam investment and finance company Limited by depositing his title deeds and borrowed a sum of Rs.12,00,000/- for consenting a house in the 2nd item of the petition mentioned properties. Since the respondent mortgaged the petition mentioned properties with the Cholamandalam investment and finance company Limited and availed loan, he would not alienate the properties to the 3rd parties. As a matter of fact this respondent has absolutely no proposal to alienate the petition mentioned properties. The present application is a blackmailing in nature. Hence, the petition is liable to be dismissed with the cost of this respondent.

4) Point that arises for consideration in this Petition is that

Whether this petition is to be allowed as prayed for?

5) Point: Heard both side. The learned counsel appearing for the respondent/defendant in para 11 of the counter statement has specifically stated as follows :-

"Since the respondent mortgaged the petition mentioned properties with the Cholamandalam investment and finance company Limited and availed loan, he would not alienate the properties to the 3rd parties".

The above said assurance of the respondent herein in the above paragraph of the counter makes it clear that he would not alienate the property to the third

party and also the learned counsel appearing for the petitioner during the hearing of this petition produce the encumbrance certificate issued by the competent authority (Sub Registrar Office) it is evident from the encumbrance certificate that the property in question had been mortgaged to the Cholamandalam Investment and Finance Co-operative limited through registered deposit of title deeds.

6) Having considered the above paragraph of the counter as well as the encumbrance certificate, this court feels that the said assurance of the respondent given in the above paragraph is sufficient to treat the same as the respondent would not encumber the property in question till the disposal of the case on merit. With the above observation, this court deem appropriate to dispose the petition.

In the result, with the above said observation this petition is closed.

This Order is dictated by me to the *Stenographer Grade-III* of this Court, typed by her directly in Computer, corrected and pronounced by me in open court, this the 26th day of June -2024.

**Principal District Judge,
Tiruvannamalai.**

Order in

IA.02/2024
in O.S.No.112/2024

D.O.O: 26.06.2024.