

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

PRESENT: Selvi M.K. Jamuna, M.L.,
Principal District Judge,
Tiruvannamalai

Thursday, the 7th day of July 2022

I.A.No.369/2021

in

O.S.No.216/2021

Krishnan

....Petitioner/Plaintiff

.vs.

1. Jaya

2. Manikandan

3. Santhi

4. Venda

....Respondents/Defendants

This petition coming on this day 21.06.2022 for final hearing before me in the presence of Thiru.V.Muthaiyan and Thiru.A.Kannathasan Advocates for the petitioner and Thiru.R.Lakshmikanthan and Thiru.P.Venkatesan Advocates for the respondents and having stood over for consideration till this date, this court delivered the order follows

ORDER

The Petitioner files this petition under order 38 Rule 5 of CPC to grant an order of attachment before Judgment of petition mentioned property.

2. The brief contents of the petition:-

The petitioner herein is the plaintiff in the above suit. He filed the

above suit for recovery of money of Rs.13,36,635/- with future interest. Subramanian husband of 1st and father of 2 to 4th respondent borrowed Rs.11,00,000/- on 05.01.2021 agreeing to repay with interest at 24% per annum on demand and executed promissory note to that effect. The said Subramanian was died intestate on 24.10.2021 leaving behind the 1st to 4th respondent as legal heirs. The respondent had not paid the amount till date. The respondents/defendants herein having the petition mentioned properties alone in his name and in order to escape from the liability and to cheat the petitioner, they wanted to dispose off the properties to third parties. For the same they are negotiating with the third parties to sell the properties, if they sells the properties he could not be in a position to realize the decree amount. Hence, this petition filed.

3. The brief content of the counter statement filed by the 1st to 4th respondent.

At the outset the defendant specifically denies all the allegations contained in the plaint except those are specifically admitted herein. Subramanian not executed the suit promissory note. The alleged pronote is false and forged one and contained lot of mistakes. The plaintiff do not have financial capacity to lend huge amount of money. Hence the petition liable to be dismissed with cost.

4. **Point : Whether the petition is to be allowed?**

Heard both side. The petitioner filed the suit on the basis of pronote executed by one Subramanian. The petitioner states that Subramanian borrowed Rs.11,00,000/- on 05.01.2021 agreeing to repay with interest at 24% p.a. on demand and executed promissory note to that effect. While so, he died on 24.10.2021 leaving behind the respondent as legal representatives. The petitioner states that Subramanian possess immovable property. Therefore respondents are liable to pay his debt from the estate of deceased Subramanian. On the other hand the respondent denies the execution of promissory note by Subramanian. Further they dispute the financial capacity of the petitioner. At the outset the respondent denied the execution of promissory note by Subramanian in favour of plaintiff. Therefore burden is only on the plaintiff to prove the execution of promissory note by Subramanian. Therefore the petitioner not made out prima facie case for the grant of decree in his favour. Hence this court inclines to dismiss the petition.

In fine, petition is dismissed.

Dictated by me to my steno-typist, computerized by her directly to my dictation, corrected and pronounced by me in open court, this the 7th day of July 2022.

**Principal District Judge,
Tiruvannamalai.**

Draft / Fair order
I.A.No.369/2021
in
O.S.No.216/2021
Dated:07.07.2022.