

IN THE COURT OF SUBORDINATE JUDGE AT VANDAVASI

Present:Tmt.S.Sharanyaa, M.L.,

Subordinate Judge, Vandavasi.

Tuesday, the 20<sup>th</sup> day of January 2026

IA.No.01/2025 in O.S.No.553/2024

Ramu

.... Petitioner

//Vs//

1. Murugan

2. Selvam

3. Selvi

....Respondents

This petition coming on 06.01.2026 for final hearing before me in the presence of Tr. S.Jeevanandham, Advocate for the Petitioner and Tr. S.P.Keerthy, Advocate for respondents and upon hearing both sides and perused the records and documents and having stood over till this date for consideration, this Court delivered the following;

**ORDER**

This petition has been filed under Order XXXVIII Rule 5 of the Code of Civil Procedure to direct the respondents to furnish security, failing which to order attachment before judgment of the immovable property of the 1<sup>st</sup> respondent.

**2.) Brief averments of the petitioner are as follows:**

(2.1) The petitioner has stated that, the above suit against the defendants was filed to direct the defendants to pay the sum of Rs.1,98,000/- to the plaintiff together with interest on the principal amount of Rs.1,65,000/- with interest at the rate of 24% per annum from the date of plaint till realization and others reliefs. The 1<sup>st</sup> defendant's wife and mother of defendants 2 and 3 namely, Rani, approached the plaintiff on 01.01.2024 and requested him to pay a sum of Rs.1,65,000/- as hand loan

for 3<sup>rd</sup> defendant's marriage and etc. At the time of borrowing the said amount Rani executed a promissory note on 01.01.2024 in favour of the plaintiff and she also agreed to repay the said amount with interest at the rate of 24 % per annum. The petitioner stated that the loan amount along with interest is still due. The said Rani passed away leaving behind the respondents as her legal heirs. Hence, the respondents are liable to pay the loan amount along with interest. The petitioner has stated that, he had issued the legal notice to the defendants on 18.09.2024 calling upon them to pay Rs.1,65,000/- along with interest at the rate of 24 % p.a, which is a sum of Rs.29,700/- and hence a total sum of Rs.1,94,700/- along with costs of the notice. On receipt of notice, the defendants sent a reply with false allegations on 04.10.2024. Hence the petitioner has come forward with this suit and also this petition to attach the schedule mentioned property before judgment.

**3.) Brief averments of the respondents are as follows:**

**(3.1)** The respondents have denied the averments of the petitioner. The respondents have stated that, the averments of the petitioner that the wife of the 1<sup>st</sup> respondent and the mother of the respondents 2 and 3 had availed the loan of Rs.1,65,000/- from the petitioner on 01.01.2024 and she had executed promissory note on the same date is not true. The wife of the 1<sup>st</sup> respondent namely Rani had started living at Bangalore from the year 2022 due to family disputes with the 1<sup>st</sup> respondent. Thereafter, the said Rani never came to the suit village. Hence, it is not possible that the suit pro-note was executed by the said Rani. Therefore, the suit Pro-note is a forged document created by the petitioner. Further the petitioner has stated that, the said Rani had availed loan

for the marriage of the 3<sup>rd</sup> respondent. But the marriage of the 3<sup>rd</sup> respondent was held on 28.10.2012 itself. Hence, the reason stated for the said loan is also not true. Further, the petitioner had issued a legal notice on 18.09.2024 calling upon the respondents to pay the alleged loan amount of Rs.1,65,000/- along with interest. The respondents had sent a suitable reply for the same on 04.10.2024. The respondents are the legal heirs of deceased Rani. However, the petition mentioned properties are the self acquired properties of the 1<sup>st</sup> respondent and he had executed a settlement deed with regard to the petition mentioned properties in favour of his grandsons. Therefore, there are no properties that stood in the name of deceased Rani. In such circumstances, the separate properties of the 1<sup>st</sup> respondent cannot be attached in this petition. Therefore, this petition is not maintainable and hence, it is liable to be dismissed.

**4.) Now the point for consideration is:**

**Whether this petition has to be allowed or not?**

(i) This petition has been filed under Order XXXVIII Rule 5 of the Code of Civil Procedure to direct the respondents to furnish security, failing which to order attachment before judgment of the immovable property of the 1<sup>st</sup> respondent. The petitioner has stated that, the wife of the 1<sup>st</sup> respondent and mother of the respondents 2 and 3 had availed a loan of Rs.1,65,000/- from the petitioner on 01.01.2024 and she had executed a suit promissory note for the said loan. The petitioner has sought to attach the property mentioned in the petition which belongs to the 1<sup>st</sup> respondent. The contentions regarding the suit promissory note and execution of the suit promissory

note for valid consideration can be decided only during the course of the trial. In this interlocutory application, the only question to be determined is whether the defendants can be directed to furnish security for the suit claim, failing which the petition mentioned property can be attached before judgment or not. It is pertinent to note that, the suit promissory note is alleged to have been executed by deceased Rani. Admittedly the respondents herein are the only legal heirs of deceased Rani. In such circumstance, the legal heirs of deceased Rani cannot be made personally liable to repay the loan alleged to have been availed by deceased Rani. The legal heirs of a person will be liable to repay the loan availed by the deceased person only to the limited extent of the estate inherited by the legal heirs from the deceased person. Admittedly the petition mentioned properties belongs to the 1<sup>st</sup> respondent. In such circumstances, the property belonging to the 1<sup>st</sup> respondent cannot be attached before judgment and the 1<sup>st</sup> respondent cannot be made personally liable for the loan availed by his wife Rani. In such circumstances, this petition is not maintainable, and it is liable to be dismissed.

**In the result, this petition is dismissed. No costs.**

This order is dictated to the steno-typist, typed by her, corrected and pronounced by me on **20<sup>th</sup> day of January 2026.**

Subordinate Judge,  
Vandavasi.

Petitioner's side Witnesses and Exhibits: Nil.

Respondents' side Witnesses and Exhibits: Nil.

Subordinate Judge,  
Vandavasi.