

In the Court of the II Additional District Judge, Thoothukudi.

Present: Tmt. M.Breetha, M.L.,
II Additional District Judge, Thoothukudi.

Friday, the 5th day of June 2026

I.A.No.01/2025

In

O.S.No.218/2025

Jeyaratchagar Petitioner/Plaintiff

/Vs/

Regikala Respondent/Defendant

This petition came on 16.04.2026 for final hearing before this court in the presence of Advocate Tr.T.Alexandar, for the petitioner and in the presence of Advocate Tr.P.Pillai Vinayagam, for the respondent and upon hearing the arguments on both side and having stood over for consideration till this day, this court delivered the following:

ORDER

1) The petitioner has filed this petition under Order 38 Rule 5 of Code of Civil Procedure to pass an order to furnish security to the tune of Rs.18,00,000/- and in default to attach the petition scheduled property before judgment and for costs.

2. Brief averments of the petition:-

The petitioner is the plaintiff in the main suit and has averred that he is well acquainted with respondent and that the respondent had borrowed a sum of Rs.16,00,000/- from the petitioner on 03.11.2024 and she had executed a demand

promissory note on 03.11.2024 agreeing to repay the principal amount of Rs.16,00,000/- along with interest at the rate of Rs.1/- for Rs.100/- per month on demand and she had handed over the photocopy of the sale deed and that the respondent has not paid any amount either towards the principal or interest and that the petitioner issued a notice through his advocate on 11.10.2025 demanding the amount and the same was received by the respondent on 13.10.2025 and she sent a reply notice on 16.10.2025 with false facts and that the respondent is liable to repay the principal amount with interests and cost and that the petition scheduled property belongs to the respondent and it is learnt that the respondent is attempting to alienate the petition scheduled property through land brokers and that the petitioner would be put to irreparable loss, if the respondent alienate the petition scheduled property and hence, constrained to file this petition seeking attachment of petition scheduled property before Judgment and prays to allow the same.

3) Brief contentions of the written statement which is adopted as counter by the respondent:-

The respondent has denied all the averments made in the petition and has contended that she was a true Christian and will never borrow any amount and payment of interest is not allowed in their religion and that it is for the petitioner to prove that he hold such a huge amount of Rs.16 lakhs by way of cash on the alleged date and that the respondent has not borrowed any amount and the signature in the promissory note has been forged by the petitioner and the act of the petitioner is an offence and that the suit is devoid of merits and prays for dismissal of the petition with costs.

4. The point for consideration is whether this petition is to be allowed or not?

5. Both sides are heard. Records are perused. The petitioner is the plaintiff in the main suit. The respondent is the defendant in the main suit.

6. The petitioner has averred that the respondent had borrowed a sum of Rs.16,00,000/- from the petitioner on 03.11.2024 and she had executed a demand promissory note on 03.11.2024 agreeing to repay the principal amount of Rs.16,00,000/- along with interest at the rate of Rs.1/- for Rs.100/- per month on demand and she had handed over the photocopy of the sale deed and that the respondent has not paid any amount either towards the principal or interest and that the respondent is liable to repay the principal amount with interests and cost and that the petition scheduled property belongs to the respondent and that the respondent is attempting to alienate the petition scheduled property and prays to order attachment of petition scheduled property before judgment.

7. The petitioner has sought for the relief of attachment before judgment under Order 38 Rule 5 of the Code of Civil Procedure and it reads as follows.

5. Where defendant may be called upon to furnish security for production of property.

(1) Where, at any stage of a suit, the court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, -

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the court,

the court may direct within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and

place at the disposal of the court, when require, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security"

(2) The plaintiff shall, unless the court otherwise directs, specify the property required to be attached and the estimated value thereof

(3) The court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

[(4) If an order of attachment is made without complying with the provisions of sub-rule (1) of this rule, such attachment shall be void]"

8. As per the above said provision, the twin conditions to be satisfied are:

(1) Prima facie case in favour of the petitioner

(2) Reasonable apprehension that there is likelihood of the defendant to dispose of the whole or any of the property to defeat the fruits of the decree if passed in favour of the petitioner.

9. If the above said twin conditions are satisfied, then in such contingencies, the court can direct the defendant to first furnish security to the tune of the suit claim.

10. To prove that the prima facie case is in his favour, the petitioner has produced Ex.P1 to P7 documents. Ex.P1 is the original promissory note. Ex.P2 is the notice dated 11.10.2023 executed by the petitioner through his advocate. Ex.P3 is track consignment record. Ex.P4 is the reply notice dated 16.10.2025 issued by the respondent through his counsel. Ex.P5 is the copy of Aadhar card. Ex.P6 is the photo copy of the sale deed in favour of the defendant. Ex.P7 is the encumbrance

certificate. It is the contention of the respondent that the signature in the suit promissory note has been forged by the petitioner. The respondent has contended in her reply notice marked as Ex.P4 that she has documents in her possession to prove that on the alleged date of execution of suit promissory note, she was on a trip to Pondicherry and the suit promissory note has been forged by the petitioner. But, she has not produced any documents in support of her contention. In the absence of production of documents said to be in the possession of the respondent, this court is of the view that the bare defence of forgery is not acceptable. From the averments in the petition and Ex.P1 to P7 documents, this court is of the view that the prima facie case is in favour of the petitioner herein.

11. Nextly, the petitioner has averred that the respondent is attempting to alienate the petition scheduled property. The petition scheduled property belongs to the respondent herein. The respondent has not denied the above said averments made by the petitioner. In the said circumstances, from the averments in the petition, the reasonable apprehension of the petitioner that there is likelihood of the respondent to dispose of the whole or any of the property to defeat the fruits of the decree if passed in favour of the petitioner could be seen.

12. In the light of the above findings, this court is of the view that the twin conditions enumerated under Order 38 Rule 5 of Code of Civil Procedure have been complied by the petitioner herein and hence, the petitioner is entitled to the relief sought for in this petition.

13. In the result, this petition stands allowed. The respondent is directed to furnish security for a sum of Rs.16,00,000/- on or before 10.07.2026; failing which the petition scheduled property stands attached automatically. For furnishing security, Call on 10.07.2026.

The Order was dictated by me to the Steno-Typist, transcribed and printed out by her, then corrected and pronounced by me in open court, this the 5th day of June 2026.

**II Additional District Judge,
Thoothukudi.**

Witnesses examined on the side of the petitioner : NIL

Witnesses examined on the side of the respondent : NIL

Exhibits marked on the side of the petitioner : NIL

Exhibits marked on the side of the respondent : NIL

**II Additional District Judge,
Thoothukudi.**

II Additional District, Thoothukudi
Draft/Fair Order
I.A. No.01/2025
in

O.S. No. 218/2025
05.06.2026

I.A. No.01/2025
in
O.S. No. 218/2025

05.06.2026

ORDER PRONOUNCED

In the result, this petition stands allowed. The respondent is directed to furnish security for a sum of Rs.16,00,000/- on or before 10.07.2026; failing which the petition scheduled property stands attached automatically. For furnishing security, Call on 10.07.2026

II Additional District Judge,
Thoothukudi.