

In the Court of the Principal District Judge, Villupuram.

Present : Selvi. R. Poornima, B.com., L.L.M.,
Principal District Judge, Villupuram.

Thursday, the 14th day of July 2022

Interlocutory Application No. 04/2022

in

O.S.No. 09/2022

.....

Murugan

... Petitioner/
Plaintiff

/Vs/

- 1) Mangai
- 2) Silambarasan
- 3) Ranjitha
- 4) Rajapandi

... Respondents/
Defendants

This Petition is coming on this day before me for final hearing in the presence of Tr. R.Tharaniventhan, Advocate for the petitioner and of Tr.T.Prabakaran, Advocate for respondents, but no counter was filed and the respondents were called absent set exparte and upon hearing the petitioner's side and on perusing the record and this court delivered the following....

ORDER

This petition is filed Under Order 38 Rule 5 r/w Section 151 of C.P.C., praying to direct the respondents to furnish security for a sum of Rs.16,35,504/-, failing which, to attach the petition mentioned properties

before Judgment.

2) The brief averment contained in the Petition are as follows :-

The petitioner has filed this petition for recovery of suit amount of Rs.15,73,217/- due under a demand promissory note dated 20.06.2019 executed by the father of the 2nd respondent. On 20.06.2019, the father of the respondents 2 to 4 namely Jayaraman S/o Arumugam had borrowed a sum of Rs.12,00,000/- from the plaintiff to clear the debts incurred for construction of house and for his daughter's marriage expenses and for his family expense, evidencing the said transaction, he had also executed the demand promissory note of even date agreeing to repay the same on demand with interest at the rate of 12% per annum. The 2nd defendant had attested as a first witness in the said promissory note dated 20.06.2019. Thereafter the said Jayaraman died intestate on 28.05.2021 without paying any amount towards Principal or interest leaving behind the respondent as his legal heirs. The respondents had succeeded the property of deceased Jayaraman and they were in possession and enjoyment of the properties morefully described in the accompanying application. The respondents had been evading for the payment of amount due under the promissory note dated 20.06.2019 under one pretext or other and hence the petitioner/Plaintiff has issued a notice on 16.12.2021 through his counsel to the respondents calling upon them to repay the amount due

under the promissory note with subsequent interest. But the respondents received the same and sent a reply on 27.12.2021 with false allegation that the said Jayaraman had not borrowed any amount from him and only the 2nd respondent had borrowed a sum of Rs.2,00,000/- in the month of May 2017 and again on 11.09.2019 he borrowed a sum of Rs.1,00,000/-and he paid 36% interest every month without fail till August 2021. Indeed the 2nd respondent had separately borrowed a sum of Rs.2,00,000/- on 16.10.2020 to start his individual business and till date he had not paid any amount either towards principal or interest. The Petitioner is preparing to take necessary separate action against the 2nd respondent in respect of demand promissory note dated 11.09.2019 and 16.10.2020. On 20.01.2022 the petitioner learnt from reliable sources from village people at Chinna Anavari Village, that the respondents are making arrangements to alienate the properties morefully described in the accompanying application. The intention of the respondents is only to defraud the plaintiff's claim and only with the view that they wants to alienate the properties. If the respondents were allowed to do so, the petitioner may not be able to realize the fruits of the decree. Interest of justice requires that the properties described in the accompanying application should be attached before Judgment, as otherwise he will suffer irreparable loss. Hence it is prayed to direct the respondents to furnish security for a sum of

Rs.16,35,504/- within a stipulated time, failing which, attach the properties described in the petition and in the meanwhile order conditional attachment of the property described in the accompanying petition and the same may be passed exparte, as otherwise the very purpose of filing this Interlocutory Application will get frustrated.

3) Point for consideration :-

Whether the petition is to be allowed or not ?

4) Answering for the Point :-

Heard. As per the averments in the petition that on 20.06.2019, the father of the respondents 2 to 4 namely Jayaraman had borrowed a sum of Rs.12,00,000/- from the plaintiff on executing a demand promissory note agreeing to repay the same with interest at the rate of 12% per annum. In the above said promissory note, the 2nd defendant had attested a 1st witness and the said Jayaraman died intestate on 28.05.2021 leaving the respondents as his legal heirs. Thereafter the respondents had succeeded the properties and they were in possession and enjoyment of the property. But the respondents are not come forward to pay the loan amount due to the plaintiff under the promissory note dated 20.06.2019. Hence the plaintiff issued a legal notice on 16.12.2021 to the respondents calling upon them to repay the amount due under the promissory note with subsequent interest. But the respondents

received the same and sent a reply on 27.12.2021 with false allegation. At this stage on 20.01.2022 the petitioner came to know from reliable sources i.e. through village people at Chinna Anavari Village that the respondents are making arrangements to alienate the petition mentioned properties to 3rd party. The intention of the respondents is only to defraud the petitioner's claim and only with the view that they want to alienate the properties. If they were allowed to do so, the petitioner may not be able to realize the fruits of the decree. Hence prayed to direct the respondents to furnish security for a sum of Rs.16,35,504/- within a stipulated time, failing which attach the properties described in the petition properties mentioned in the petition should be attached before Judgment.

5) On the side of the respondents, Tr.T.Prabakaran, filed vakalath. But no counter was filed on the side of the respondents in order to raise their objection for the allegations mentioned in the petition.

6) In order to prove the case the petitioner/plaintiff has been examined as PW1. Further Token receipt issued by the Registration Department for the purpose of Registration was produced on the side of the petitioner and the same was marked as Ex.P1. On perusal of Ex.P1, it reveals that one Murugan S/o Kaliyan has obtained receipt for Registration. But the details of the properties are not available in Ex.P1. The respondents were provided

with fair opportunity to furnish security or to explain the reason for not furnishing security. Though the respondents appeared through lawyer, neither filed any counter till date nor furnished any security. Hence it is presumed that they do not have counter and attempted to sell the properties. If the properties are sold, the petitioner will be put to hardship and he could not recovery the money. Hence this court is inclined to allow this petition. Therefore Interim attachment of petition mentioned properties is ordered. The Respondents are prevented from selling the petition mentioned properties till the suit is disposed off.

In the result, Interim attachment of petition mentioned properties is hereby ordered. The Respondents are prevented from selling the petition mentioned properties till the suit is disposed off. Issue intimation to the Sub Registrar, Thirunavalur. Attach by 27.07.2022. Batta in 3 days.

Order dictated by me to the stenographer, directly typed by her in the Computer, corrected and pronounced by me, in the open court, this the 14th day of July 2022.

Principal District Judge,
Villupuram.

List of witnesses examined on the side of the Petitioner :-

PW1/ Tr.Murugan (petitioner)

List of Exhibits marked on the side of the Petitioner :-

Ex.P1/ 09.02.2022 Token receipt issued by the Registration Department.

List of witnesses examined on the side of the Respondents :-

- Nil -

List of Exhibits marked on the side of the Respondents :-

- Nil -

sd/- R.Poornima
P.D.J
VPM.

Draft / Fair Order
IA.No.04/2022
in
O.S.No.9/2022 in
Dated 14.07.2022.

