

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.,**
Additional District Judge, Virudhunagar

Wednesday, the 12th day of June, 2024

IA No.1/2024 in OS No.18/2024

P.Sundararaj	//Vs//	... Petitioner/Plaintiff
Meenavathi		... Respondent/Defendant

This petition came up on 05.06.2024 for final hearing before me in the presence of Thiru.P.Gangadharan, Learned advocate for the petitioner, Thiru.N.Surendran, Learned advocate for the respondent and upon considering all material records in this case and hearing the arguments on both sides and having stood over till this day for consideration and this court doth deliver the following

ORDER

Petition filed under Order XXXVIII Rule 5 CPC filed by the petitioner/plaintiff for attachment of scheduled properties before judgment.

2. It is stated in the petition that the petitioner filed the suit against the respondent/defendant for recovery of money. The defendant's husband and son-in-law are friends of this petitioner. In the month of November, 2022, the respondent approached the petitioner stating that her son-in-law Sureshkumar is in need of Rs.1 crore for his business. For the respondent's son-in-law, the respondent and her husband requested a sum of Rs.15 lakhs from this petitioner. On 27.11.2022 the respondent borrowed a sum of Rs.15 lakhs and executed a promissory note. She did not repay the amount with interest. When the petitioner asked back the money, the respondent made threat that she would give complaint before police. Now, the respondent is liable to pay a sum of Rs.17,05,500/-. The respondent's son-in-law borrowed huge sum of money from various persons in and around Kovilpatti. CC No.372/2023 and CC No.373/2023 are pending against him in

Judicial Magistrate Court, Tambaram for dishonour of cheque. If the respondent encumbered the properties, the petitioner will not be able to realise the sum. Hence, the properties have to be attached pending suit.

3. The respondent filed counter contending that all the allegations in the petition are false. It is further alleged that the respondent does not even know the petitioner herein. The respondent's daughter Sethu Ramathilagam has married Sureshkumar who was doing business. Now, the respondent's daughter is living separately from her husband. On 20.10.2023 one Mathavan, Nammalvar and Saravanan went to the house of respondent and demanded money with her daughter. So, the respondent's daughter lodged a complaint with Elayirampennai police station. To wreck vengeance against the respondent's daughter, the petitioner obtained documents relating to properties of the respondent put the signature he forged the promissory note and filed this suit. One Srinivasan also has forged the signature of this respondent filed another suit OS No.19/2024. The respondent has never borrowed any money from the petitioner and never executed any promissory note.

4. No witness was examined on both sides. But, on the side of respondent Ex.R1 Encumbrance Certificate and Ex.R2 Copy of gold loan account pass card were marked.

5. Heard both sides.

6. Whether this petition deserves to be allowed is the point for consideration.

7. Point:

This petition is filed by the petitioner/plaintiff for attachment of the scheduled properties before judgment. It is the case of the petitioner that the respondent borrowed a sum of Rs.15 lakhs from him on 27.11.2022 and executed a promissory note. She did not repay any sum and hence, he filed the suit. The respondent is trying to alienate the properties and in such case, the petitioner will not be able to realise the amount if decreed. In support of his contention, the

petitioner filed 3rd party affidavit of one Srinivasan. In the affidavit, he has stated that the respondent is trying to sell the properties.

8. In this petition, notice was ordered to the respondent and after receiving the notice she did not appear and was set *ex parte*. She was directed to furnish security of Rs.18 lakhs and at that time she filed an application to set aside the *ex parte* order and filed counter.

9. It is the contention on the side of respondent that she did not know the plaintiff and the respondent's son-in-law Sureshkumar has borrowed some amounts from various persons and the respondent's daughter is now living separately from Sureshkumar. The creditors approached the daughter of this respondent and so, she gave a complaint before Elayirampannai police station. So, to wreck vengeance this suit has been filed. by the petitioner by forging the signature of this respondent. So, the case of respondent is total denial.

10. The fact if the respondent has borrowed any amount from the petitioner and executed the promissory note has to be decided after trial. Now, admittedly the scheduled properties are in the name of respondent. The respondent herself filed Ex.R1 Encumbrance Certificate. According to her, she obtained a gold loan and purchased a property. As argued by the petitioner's counsel, if the respondent alienate the properties during pendency of the suit and if the suit is decreed in favour of the petitioner, the petitioner will not be able to realise the amount. 3rd party affidavit also filed that the respondent is trying to alienate the properties. Hence, this court is of the view that the petition has to be allowed.

11. In the result, this petition is allowed and the respondent is directed to furnish security to the tune of Rs.18,00,000/- on or before 20.06.2024. Call on 21.06.2024. No order as to costs.

Dictated to the steno-typist, typed by him, corrected and pronounced by

... 4 ...

me in open court, on this the 12th day of June, 2024.

Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioner:

Nil.

Witness on the side of the Respondent:

Nil.

Exhibits on the side of the Respondent:

Ex.R1 : Copy of Certificate of Encumbrance on property.

Ex.R2 : Copy of gold loan account pass card.

Additional District Judge,
Virudhunagar.

Additional District Court
Virudhunagar
IA No.1/2024 in OS No.18/2024
ORDER
Dated: 12.06.2024
