

**E.P No.3 of 2019**

MASTER
14.07.2026

ORDER

1. This Petition has been filed under Order XXI Rule 46 A of C.P.C to direct the Garnishee the Registrar of Chits having office at District Registrar, Central Madras, Chennai 600 005, to deposit the sum of Rs.39,06,341.48 paise from and out of the moneys of the Judgment Debtor lying in the hands of the Garnishee towards satisfaction of the E.P claim. The case of the petitioner/decreed holder is that he had filed a suit in C.S.No.321 of 2001 against the Judgment debtor/1st respondent for recovery of money which was decreed in his favour by a Judgment and decree dated 22.06.2006. Hence, this petition seeking attachment of a sum of Rs.39,06,341.48 paise lying with the Garnishee/2nd respondent.

2. The Garnishee/2nd respondent filed a counter contending that the Deputy Registrar of Chits does not have any possession over any of the assets of the Judgment debtor except the security deposits for the chit group NSPL3 conducted by the Judgment debtor Sanmac Chits Limited and it is understood that the chit bearing prior sanction order No.163/1997 have commenced chit group for a value of Rs.5,00,000/- on 08.01.1998 for a duration of 40 months and in this connection the Judgment debtor as a foreman had deposited Rs.5,00,000/- as security deposit. It is further contended that as per Section 20 (4) of the Chit Funds Act 1982 , a security given by the foreman shall not be liable to be attached in execution of a decree or otherwise until the chit is terminated and the claims of all the subscribers are fully satisfied. Further, the claim of the decree holder is of two fold, one as a subscriber and another as a lender and the petitioner cannot claim the security deposit of the chits meant for all the subscribers in view of the alleged loan given by him to the Judgment debtor. Hence, this execution petition may be dismissed.



WEB COPY

3. Now, the point that arise for consideration before this court is whether the security deposit maintained under Section 20 of the Chit Funds Act, 1982 is liable to attachment under Order 21, Rule 46.

4. Heard the counsel for the petitioner and the Garnishee. The 1st respondent / Judgment debtor was set exparte. Both the counsels for the petitioner and the Garnishee have filed their written submissions. For the sake of convenience it would be appropriate to extract the relevant provisions which would be helpful to decide the petition.

Order 21, Rule 46 (1) C.P.C

(1) In the case of -

- (a) a debt not secured by a negotiable instrument,*
- (b) a share in the capital of a corporation,*
- (c) other movable property not in the possession of the Judgment debtor, except property deposited in, or in the custody of, any court,*

the attachment shall be made by a written order prohibiting,-

- (i) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the court;*
- (ii) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any divided thereon;*
- (iii) in the case of the other movable property except as aforesaid, the person in possession of the same from giving it over to the Judgment debtor.*

Section 20 (4) of Chit Funds Act, 1982 reads as under:

"(h) the security given by the foreman under sub-section 1 or any security substituted under sub-section (3), shall not be liable to be attached in execution of a decree or otherwise until the chit is terminated and the claims of all the subscribers are fully satisfied.

5. From a bare reading of the above provisions, it is clear that Order 21 Rule 46 of C.P.C enables attachment only of debts or movable property not in the



possession of the Judgment debtor but belonging to him. Garnishee proceedings can be maintained only where the Garnishee is indebted to the Judgment debtor or holds attachable property belonging to the Judgment debtor. Section 20 of the Chit Funds Act, 1982 mandates that every foreman shall furnish security before commencing of a chit. The security is deposited or furnished to the Registrar exclusively to secure the interest of the subscribers. The Registrar holds such security deposits in a fiduciary capacity as mandated by the statute and such security deposit cannot be treated as the foreman's general property available for execution.

6. In the case on hand, it is seen that the Judgment debtor has not contested either the suit or this execution petition. When it is the contention of the Garnishee that he does not hold any of the assets belonging to the Judgment debtor except the statutory security deposit maintained under Section 20 of the Chit Funds Act, it is the duty of the decree holder by producing sufficient material evidence to establish that the Chit has been terminated and the claims of all the subscribers are fully satisfied and so the security deposit lying with the Garnishee has become payable to the Judgment debtor. But no such proof has been produced by the decree holder to convince this court to grant an order of attachment of the security deposit lying with the Garnishee. Moreover, here is a case where the decree holder not only claims the amount as a subscriber but also as a lender, while so, it is the duty of the decree holder to establish that the security deposit available with the Deputy Registrar of Chits is a debt owed to the Judgment debtor only in which case an order of attachment can be passed under Order 21, Rule 46 of C.P.C.

7. In view of the aforesaid discussion this court is of opinion that the security deposit maintained by the Deputy Registrar of Chits under Section 20 of the Chit Funds Act, 1982 is not liable to attachment and accordingly, this execution petition is liable to be dismissed.



In the result this execution petition is dismissed. No cost.

WEB COPY

MASTER