



C.R.P.No.2239 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.12.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2239 of 2025
and C.M.P.No.13013 of 2025

Mr.Nallusamy

... Petitioner

VS.

1.Palaniappan
2.M/s.Success Agri Traders,
Kanavayputhur,
Kadaiyampatty Taluk,
Salem represented by its partners
Rajasekhar and Aravindhini.
3.Rajasekhar
4.Aravindhini

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 07.12.2024 made in I.A.No.6 of 2024 in O.S.No.168 of 2023, on the file of the Additional District Judge, Dharmapuri.

For Petitioner : Mr.T.S.Vijaya Raghavan

For Respondents :Mr.J.Venkatraman
for M/s.J.Agni Selvaraju for R1
M/s.S.Arjun for R2 to R4



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ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner/3rd party to the suit seeking his impleadment.

2. The first respondent herein filed a suit for recovery of money based on dishonoured cheques, he also filed an application to attach the properties of the respondents 2 and 4. The petitioner herein claiming himself as a previous agreement holder who obtained a decree for specific performance in respect of the properties of the respondents 2 to 4 filed an application seeking his impleadment and the same is dismissed. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the right of the previous agreement holder will prevail over the attachment. In order to protect his interest, he shall be impleaded in the present suit. He relied on the judgment of Hon'ble Apex Court in **(1990) 3 SCC 291** reported in ***Vannarakkal Kallalathil Sreedharan Vs. Chandramaath Balakrishnan and another.***



4. The learned counsel appearing for the first respondent would submit that the petition filed by the first respondent in I.A.No.3 of 2023, seeking attachment before interlocutory application was dismissed by the trial Court on 21.02.2025 and in such circumstances, there is no necessity for impleading the petitioner. He also submitted that the petitioner is not at all connected with the suit transaction between the first respondent and other respondents. Therefore, his presence is not at all required.

5. In view of Section 64 (2) of CPC, the attachment creditor is entitled to attach the property only subject to any obligation created under the agreement of sale entered into prior to the date of attachment. The law in this regard was already settled by the Apex Court in *(1990) 3 SCC 291* reported in *Vannarakkal Kallalathil Sreedharan Vs. Chandramaath Balakrishnan and another.*

6. Therefore, there is no doubt with regard to the right of the previous agreement holder which will prevail over the attachment creditor. In case, the property is attached in the proceedings initiated by the first respondent and other respondents, it is always open to the petitioner to file an application under Rule 8 Order XXXVIII of CPC to raise attachment by



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relying on the above mentioned judgment of the Apex Court, therefore, non impleading will not jeopardise the interest of justice. In any event, the suit has been filed for recovery of money based on dishonoured cheque issued by the defendant and admittedly, the petitioner was not a party to the transaction between the 1st respondent and other respondents. In such circumstances, the presence of the petitioner is not at all necessary to decide the controversy in the suit.

7. I do not find any error in the impugned order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

17.12.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

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The Additional District Judge,
Dharmapuri.



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S.SOUNTHAR, J.

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