



WEB COPY

CRP No. 6417 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

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THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6417 of 2025 and
CMP.No.31732 of 2025**

1. Mrs.Poonguzhali

2. Mrs.Divya

3. Mrs.Vidya

4. Mrs.Nithya

Petitioners

Vs

Manikandan

Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the order dated 10.10.2025 passed by the Learned Principal District Judge, Kallakurichi in IA.NO. 176/2024 in OS.No. 151/2024.

For Petitioner(s): Mr.D.Murugan

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial court allowing the application filed by the respondent/plaintiff by directing



the petitioners/defendants to furnish security for the suit amount of Rs.32,07,893.50/- on or before 26-11-2025 and failing which, ordering attachment before judgment in respect of items 1 and 2 of the petition mentioned properties.

2.The respondent herein filed a suit for recovery of above said amount based on promissory note dated 23-04-2021 executed by one Subramanian, deceased husband of the 1st petitioner and father of the petitioners 2 to 4. Pending suit, application for attachment before judgment was filed by the respondent in respect of the properties of Subramanian in the hands of the petitioners. Though petition was filed in respect of three properties, the trial court found that item 3 was not the part of the estate of the deceased Subramanian and hence, dismissed the application in respect of item 3 alone.

3. As far as item 1 and 2 based on the documentary evidence adduced before it, the trial court found item 1 and 2 of the suit properties were part of the estate of the deceased Subramanian in the hands of the petitioners and allowed the application by directing the petitioners to furnish security within a time frame and on their failure to furnish security, passed attachment before judgment. Aggrieved by the said order, the petitioners have come before this Court.

4. The learned counsel for the petitioners submitted that the petitioners filed undertaking affidavit before the trial court undertaking not to alienate the



subject properties pending disposal of the suit. In spite of the same, the trial court committed an error in attaching the property. The learned counsel further submitted that the respondent failed to prove that the petitioners are attempting to alienate the property.

5. In the affidavit filed in support of the attachment before judgment petition, the respondent had clearly stated that petitioners were attempting to alienate the petition mentioned properties in order to defeat the decree likely to be passed against them. The petitioners herein filed counter affidavit to attachment before judgment petition. In that counter, they have taken a definite stand that the petition mentioned properties were not the properties of Subramanian and hence, the same could not be attached. They also denied the execution of promissory note by Subramanian. It was further stated by them that the subject properties were given as a security to the bank and loan was availed by them and in such circumstances, the respondent could not maintain attachment before judgment application. Therefore, it is pertinent to point out that the assertion made in the affidavit of the respondent that the petitioners were attempting to alienate the petition mentioned properties to third parties in order to defeat the decree likely to be passed in their favour has not been specifically denied by the petitioners in the counter affidavit. Further, the petitioners had gone to the extent of taking a stand that the subject properties were not the properties of the deceased Subramanian. They also said the properties were given as a security to the bank in a loan transaction. Therefore,



it is clear that the petitioners are attempting to encumber the properties.

6. Exhibit P1 and Exhibit P5 were the sale deeds in respect of item 1 and 2 executed in favour of Subramanian. Exhibit P2 is the patta in the name of Subramanian. Based on that concrete evidence, the trial court came to the conclusion that the property was originally purchased by Subramanian. After his death, the item 1 and 2 of the suit properties were inherited by petitioners 1 to 4. On 14-12-2022, the petitioners 1 to 3 executed a release deed in favour of 4th petitioner in respect of item 1 and 2 of the suit properties. Subsequently, patta was also changed in the name of 4th petitioner. Therefore, the petitioners deliberately made false averments in their counter-affidavit as if the petition mentioned properties were not the properties of Subramanian. Subsequently, an undertaking affidavit was filed before the trial court undertaking not to alienate the subject properties pending disposal of the suit. In the light of the false averments made in the counter-affidavit denying the very right of Subramanian over the suit properties and also the fact release deed was executed by petitioners 1 to 3 in favour of 4th petitioner and alleged loan transaction by furnishing petition mentioned properties as a security to a bank etc., creates serious doubt with regard to the trustworthiness of the undertaking given by the petitioners.

7. Therefore, the trial court was justified in directing the petitioners to furnish security to it's satisfaction within a time frame and only in the event of failure of the petitioners to furnish security as directed, the item 1 and 2 of the



petition mentioned properties will be attached. Therefore, I do not find any material irregularity or illegality in the order passed by the trial court in the facts and circumstances of the case. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

18-12-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

The Principal District Judge, Kallakurichi



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