

WEB COPY



C.R..P.(MD).No.1527 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1527 of 2025

S.Siva Kumar

... Petitioner

Vs.

P.Gino Paul

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 11.12.2024 passed in I.A.No.1 of 2023 in O.S.No.241 of 2023 on the file of the Sub Court, Kuzhithurai.

For Petitioner : Mr.G.Ramanathan

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 11.12.2024 passed in I.A.No.1 of 2023 in O.S.No.241 of 2023 on the file of the Sub Court, Kuzhithurai.



C.R..P.(MD).No.1527 of 2025

WEB COPY

2.Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.

3.The petitioner filed a suit for recovery of money in O.S.No.241 of 2023 on the file of the Sub Court, Kuzhithurai as against the respondent. In the said appeal, the petitioner filed an application seeking attachment of property before judgment and the same was rejected. Challenging the same, the present Civil Revision Petition is filed.

4.The learned Counsel Petitioner for the petitioner submitted that the respondent borrowed a sum of Rs.2,85,000/- in the year 2020 from the petitioner. The respondent issued a cheque on 21.09.2020 for the said amount. When the petitioner presented the said cheque for encashment, the same was dishonored. Hence, the petitioner has filed a complaint under Section 138 of Negotiable Instruments Act as against the respondent and the same is pending. In the meanwhile, for recovery of the said amount along with interest, the petitioner filed a money suit in O.S.No.241 of 2023. In that suit, the petitioner filed an application seeking attachment of the property of



C.R..P.(MD).No.1527 of 2025

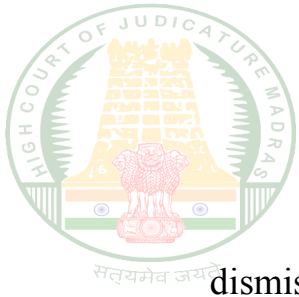
WEB COPY

the respondent before judgment. However, the said application was rejected.

According to the petitioner, the order of rejection passed by the trial Court is improper. Accordingly, he prays for appropriate orders.

5.The fact in the present case is not in dispute. Admittedly, proceedings under Section 138 of the Negotiable Instruments Act is initiated by the petitioner as against the respondent/defendant and the same is pending. Subsequently, the petitioner filed a money suit as against the respondent for recovery of the amount and in that suit, he filed an interlocutory application seeking attachment of property before judgment.

6.The disputed amount is only around Rs.5 lakhs. For the said meagre amount, the entire property cannot be attached. It is to be further noted that the criminal case initiated as against the respondent is not yet decided. Further, the issue as to whether the issuance of cheque is legally enforceable or not, has to be adjudicated only at the time of trial. The substantial right of a person to live in the property, cannot be deprived only because of the pendency of 138 case and other case before the civil Court. Hence, the application seeking attachment of property before judgment has been rightly



C.R..P.(MD).No.1527 of 2025

WEB COPY

dismissed by the trial Court. I do not find any reason to interfere with the said order. Accordingly, this Civil Revision Petition is dismissed. No costs.

02.06.2025

Index : Yes / No
Internet : Yes / No
ta

To

- 1.The Sub Court, Kuzhithurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(MD).No.1527 of 2025

M.DHANDAPANI,J.

ta

C.R.P.(MD)No.1527 of 2025

02.06.2025