



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1941 of 2022

and

C.M.P.No.9836 of 2022

G.Vijaya
W/o Rajendran,
49-1, Anna St,
Karamadai, Coimbatore – 4.

..Petitioner(s)

Vs

P. Murali
S/o Palanisamy,
No.52/2C, Nalini House,
Jadal Naidu St, SRKV Post,
Periyanaickenpalayam,
Coimbatore 20.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Order and decree passed in IA.No. 1 of 2020 in OS.No. 263 of 2020 by the I Addl. District Court, Coimbatore dated 08.02.2021.

For Petitioner(s):	Dr.C.Ravichandran For M/s.S.B.Viswanathan
For Respondent(s):	No appearance

ORDER

The present Civil Revision Petition has been filed to set aside the Order and decree passed in IA.No. 1 of 2020 in OS.No. 263 of 2020 by the I Addl. District Court, Coimbatore dated 08.02.2021.



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2. Heard Dr.C.Ravichandran, learned counsel for the petitioner.

3. Despite of notice being served, as evidenced from the records, the respondent is neither present before this Court nor represented by a learned counsel. He is called absent and set *exparte*.

4.The learned counsel for the petitioner would submit that the petitioner had instituted a suit, seeking for recovery of a sum of Rs.23,80,466/- from the respondent together with interest. Even though the respondent had denied execution of the promissory note, he has not taken any steps to seek an expert opinion on the suit promissory note. The petitioner had also taken out an application, seeking a direction to the respondent to furnish adequate security to the satisfaction of the Court, failing which, the order of attachment of the schedule mentioned property in the said petition was sought for.

5. Notice was initially ordered with a direction to furnish security as directed by the Court. However, the application for attachment before judgment was dismissed by holding that the petitioner had failed to prove that there was an immediate threat of disposal of the property.



6. The learned counsel for the petitioner would submit that the said order came to be passed on 08.02.2021 without considering the apprehension of the petitioner or even calling upon the respondent to give an undertaking that he would not deal with the property pending the suit. He would submit that immediately after the dismissal of the said application, the respondent had surreptitiously transferred the property to a third party by a registered Sale Deed bearing Document No.23354 of 2022 dated 08.10.2022.

7. He would further submit that the said transaction is hit by Section 52 of the Transfer of Property Act. In that context, he has also relied upon a judgment of a learned Single Judge of this Court in the case of *Annakkili vs. Murugan and another*, reported in *2021 (2) LW 837*.

8. Drawing the attention of this Court to the registered Sale Deed executed by the respondent, he would submit that the order, dismissing the application filed by the petitioner under Order XXXVIII Rule 5 of CPC., had also been annexed as part of the Sale Deed registered in favour of the third party. Hence, it would indicate that the third party was aware of the litigation pending between the petitioner and the respondent. He would further submit that to create further confusion, even though the property had been sold, the respondent had also executed a settlement deed in favour of his wife. He would submit that these transactions are surreptitious transactions, to defeat the right of



the petitioner in recovering the money. He would submit that the order holding that there was no apprehension would itself fall in view of the Sale Deed executed by the respondent. He would submit that such a sale and the subsequent settlement would itself would disclose the conduct of the respondent. Hence, he seeks the indulgence of this Court.

9. I have considered the submissions made by the learned counsel appearing for the petitioner and perused the materials available on record.

10. The reason that had been attributed by the trial court in rejecting the application under Order XXXVIII Rule 5 is that the apprehension of the petitioner that the respondent would transfer the property, which was sought to be attached was wholly unfounded. It is to be noted that the order made in the application for Attachment Before Judgment came to be dismissed by the court on 08.02.2021 and the revision had been presented before this Court on 21.04.2021, in which notice was ordered to the respondent.

11. The Affidavit of Service filed by the petitioner for service of notice on the respondent would indicate that the same was delivered to the respondent in the month of June 2022. The notice on the counsel for the respondent was also served and the respondent had entered appearance before this Court on 06.07.2022. The sale of the property had been made by the respondent on 08.10.2022, putting the purchaser of the property on notice with regard to the



initiation of the Attachment Before Judgment proceedings against the property.

The said order had also been enclosed along with the Sale Deed executed by the respondent.

12. Having knowledge of the pendency of the revision and without even seeking permission of this Court, the respondent had disposed of the property within three months of filing his vakalat in the present revision. This would show that the respondent, only to circumvent any order that may be passed in the revision, had proceeded to dispose of the property.

13. The Hon'ble Apex Court, in the case of ***M/s. Nav Nirman Builders & Developers Private Limited Vs. Union of India*** made in ***Criminal Appeal No.729 of 2026 dated 06.02.2026***, had held that when an appeal against an order passed had been made and is pending before a higher forum, it acts as a deemed embargo on the conclusion of the proceedings. For better appreciation, the relevant portion is extracted hereunder:

“46.As discussed, the powers of the Appellate Tribunal are rather wide and exhaustive. What is referred to under Section 8(7) of the PMLA is a confirmation order which has attained finality. At the cost of repetition, once an order under Section 8(3) of the PMLA is challenged before a higher forum, a deemed embargo operates on the conclusion of the proceedings under Section 8(7) of the PMLA. Hence, the Special Court cannot go into the issues which the higher forums have been entrusted with. When an appeal is provided for under the statute, it gives a vested right to any aggrieved person to exhaust the same.”



14. The respondent, having knowledge of the pendency of the revision proceedings, ought to have waited for the disposal of the said proceedings or should have taken permission from this Court. Instead of doing so, after filing vakalat in the present revision, the respondent had disposed of the property in favour of a third party, also putting the purchaser on notice about the Attachment Before Judgment proceedings and thereafter the purchaser had settled the same in favour of his wife within a short period. This creates a suspicion regarding the genuineness of the said transaction.

15. This Court can only presume that such transaction had been made only to defeat the interest of the petitioner in the event of his succeeding in the suit. This doubt is further supported by the fact that the respondent had failed to furnish the security as ordered by the trial court, nor had he made any statement before the trial court that he would not dispose of the property, which is sought to be attached.

16. For the aforesaid reasons, this Court is inclined to interfere with the orders passed by the trial court. Accordingly, the Civil Revision Petition stands allowed and the order passed by the trial court in I.A.No.1 of 2020 in O.S.No.263 of 2020 by the learned I Additional District Court, Coimbatore, is set aside. Consequently, the said I.A. is ordered as prayed for. The court below, on receipt of a copy of this order, is directed to notify attachment of the property



to the concerned Sub-Registrar for reflection of the attachment in its records.

No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The I Additional District Court,
Coimbatore.



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K.KUMARESH BABU, J.

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