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C.R.P.(MD)No.527 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.03.2026**

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)No.527 of 2026

and

CMP(MD)No.2297 of 2026

M.Manikandan

... Petitioner

vs.

1.Backiyalakshmi

2.Jaya

3.Maruthupandi

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to call for records and set aside the fair and decreetal order dated 28.02.2025 passed in E.P.No.146 of 2024, in O.S.No.303 of 2017 by the learned Subordinate Court, Bodinayakanur, Theni District.

For Petitioner : Ms.S.Susmitha
For M/s.Aran Legal Consultancy

For Respondent : Mr.K.Guhan

ORDER

The Civil Revision Petitioner is the 1st defendant/judgment debtor. The 1st Respondent/plaintiff/decreed holder presented a suit in O.S.No.303 of 2017, for recovery of a sum of Rs.2,60,000/- against him. The suit had been presented on the foot of the promissory note.



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The suit came to be decreed by the learned Subordinate Judge at Theni on 15.06.2022. Despite the decree, the 1st defendant did not pay the plaintiff. Hence, she filed execution petition seeking recovery of Rs.4,34,438/- by resorting to Order 21 Rule 48 of the Code of Civil Procedure. This execution petition was numbered as E.P.No.120 of 2023 on the file of the Subordinate Court at Theni. Subsequently, on bifurcation of jurisdiction it stood transferred to the file of Subordinate Judge at Bodinayakanur and was re-numbered as E.P.No.146 of 2024. Notice was ordered in the said application to the judgment debtor as well as to the garnishee. The judgment debtor remained absent. The garnishee reported no objection for attaching the salary of the judgment debtor. Hence, the order of attachment was made absolute on 28.02.2025. Challenging the same, the present revision.

2. Heard Ms.S.Susmitha appearing for M/s.Aran Legal Consultancy, for Petitioner and Mr.K.Guhan for Respondent.

3. It is urged by Ms.S.Susmitha that since there are two other judgment debtors, the decree holder should have attached their properties and should not have resorted to attachment of the salary, invoking Order 21 Rule 48 of the Code. She pleads that the judgment debtor should have been given an opportunity to contest the suit but



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taking advantage of the ex-parte decree, the decree holder has attached the salary of the petitioner. Hence, she prays that the order of the Executing Court be set aside and the judgment debtor be released from the clutches of attachment.

4. Per contra, Mr.K.Guhan, represents that the decree having been passed as early as 2022, as the judgment debtor had not honoured the same, the decree holder had no other option than to file an execution petition and get the salary of the Civil Revision Petitioner attached. He states that the transaction is of the year 2014 and till date, the decree holder had not been able to recover the entire amount paid under the promisory note. He states that there is no illegality or irregularity committed by the Executing Court and seeks dismissal of the revision.

5. I have carefully considered the submissions of both sides and gone through the records.

6. On the first plea that judgment debtors 2 and 3 have assets and those should be proceeded against before seeking the attachment of the salary of the revision petitioner is concerned, I have to reject it. It is at the option of the decree holder either to go for attachment of the salary of a Government servant or undergo the process of



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attachment of sale of immovable properties. When the option is available to the decree holder and she has exercised that option, unless and until, there is any law which prevents such attachment, this Court should not interfere with the said order. The decree holder is entitled to choose any one of the mode of execution. In her wisdom, she has chosen the process of attachment of salary. When that process is available to the decree holder, this Court does not find any fault with the manner in which that execution has proceeded.

7. Insofar as the 2nd plea it is only an exparte decree and not contested one is concerned, even an ex-parte decree has, as much validity as, a contested decree. As long as the decree stands, the decree holder is entitled to execute the same. As both the pleas fails, I do not find any reason to interfere with the order of attachment passed by executing Court.

8. Hence, the Civil Revision Petition stands **dismissed**. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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The Subordinate Court, Bodinayakanur, Theni District.



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V.LAKSHMINARAYANAN, J.

Nsr

Order made in
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