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C.R.P.(MD)No.112 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2026

CORAM

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

C.R.P.(MD)No.112 of 2023
and
C.M.P.(MD)No.527 of 2023

Subban Chettiyar (died)

1.C.Jothimani
2.L.Sarojini
3.S.Nagarajan
4.S.Balasubramani

... Petitioners

-vs.-

1.S.Mahalingam (Died)
2.T.Mahalingam
3.M.Palanichamy
4.P.Vijayalakshmi
5.M.Rajamani
6.S.Chandrasekar
7.S.Selvaraj
8.Eswari
9.Gunavathi

...Respondents

(Respondents 5 to 9 were brought on record as legal representatives of the deceased 1st respondent vide order of this Court, dated 05.02.2026 in C.M.P.(MD)Nos.20648 to 20650 of 2025)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order, dated 13.06.2022 passed in I.A.No.4 of 2021 in A.S.No.1 of 2014 pending on the file of the Subordinate



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Court, Theni and allow this Civil Revision Petition.

For Petitioner	:Mr.M.A.M.Raja
R1	:Died
For R2	:No Appearance
For R3 and R4	:Mr.J.Michael Xavier Rowin for Mr.I.Romeo Roy Alfred

ORDER

I heard Mr.M.A.M.Raja, for the Civil Revision Petitioner and Mr.J.Michael Xavier Rowin for Mr.Romeo Roy Alfred for the contesting respondents.

2.This revision challenges the order passed by the learned Subordinate Judge at Theni, in I.A.No.4 of 2021 in A.S.No.1 of 2014, dated 13.06.2022. The Civil Revision Petitioner is the appellant in A.S.No.1 of 2014. For the sake of convenience, the parties shall be referred to as per their the ranking in the suit.

3.The plaintiff, S.Mahalingam, had filed a suit against his nephew, one T.Mahalingam and another person, by name, Subban Chettiar. This suit was filed in O.S.No.65 of 2012 on the file of the District Munsif Court at Theni for the following reliefs:



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“1.பிராது சொத்தானது வாதிக்கு மட்டும் தனித்து பாத்தியப்பட்டது என்று விளம்புகை செய்யும்படிக்கும்.

2.பிராது சொத்தைப் பொருத்து லேட்.தொந்தி செட்டியாரும், அவரது மகன்கள் 1ம் பிரதிவாதியும், லேட்.ஆண்டவரும் 2ம் பிரதிவாதிக்கு 4.10.1995ம் தேதி எழுதிக் கொடுத்த கிரையப் பத்திரம் Null and Void என்று விளம்புகை செய்யும்படிக்கும்,

3.வாதியின் தனித்த அனுபவத்திலும், சுவாதீனத்திலும் இருந்து வருகின்ற பிராது சொத்தில் பிரதிவாதிகளோ அவர்களைச் சார்ந்தவர்களோ எந்தவிதத்திலும், ஆக்கிரமிப்பும் இடைஞ்சலும் செய்யாமலிருக்க ஷயார்கள் மீத நிரந்தர நிலையுறுத்துக் கட்டளை பிரிகாரத்திற்கும்

4.வழக்கின் செலவை வாதிக்கு பிரதிவாதிகளைக் கொடுக்கும்படிக்கும் தீர்ப்பாணை பிறப்பிக்குமாறு பணிவுடன் பிரார்த்திக்கப்படுகிறது.□

4.The suit was hotly contested. By a judgment and decree dated 23.10.2013, the learned District Munsif at Theni had decreed the suit as prayed for.

5.Aggrieved by the same, the second defendant preferred a regular appeal to the file of the Subordinate Judge at Theni. This appeal was received as A.S.No.1 of 2014.

6.Pending the first appeal, the plaintiff, S.Mahalingam alienated the



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property in favour of the third respondent herein by way of a registered document dated 06.12.2018. The third respondent, thereafter, settled the property on 24.10.2019, in favour of the his wife, the fourth respondent herein.

7.On coming to know of the sale and the settlement deed, the Civil Revision Petitioners/appellants filed an application in I.A.No.4 of 2021 under Order 1 Rule 10(2) of the Code of Civil Procedure to implead the purchaser and the settlee from the purchaser, as parties to the appeal. This application was resisted by the respondents 3 and 4. By an order, dated 13.06.2022, the learned Subordinate Judge had dismissed the said application. Hence this revision.

8.The scope of this revision is extremely limited. The issue being whether the *lis pendens* purchaser from a successful plaintiff is a proper or a necessary party to the proceedings. It is not in dispute that there is a decree in favour of the plaintiff/S.Mahalingam.

9.The plea of Mr.J.Michael Xavier Rowin, is that, it is after verification of the title, the third respondent had purchased the property from the



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plaintiff. Further, he states that as the plaintiff is supported by a decree of the Court, the application to implead the third respondent and his settlee as parties to the appeal is unnecessary.

10.The status of the respondents 3 and 4 is only as “legal representatives” or “assignees” of the interest of the original plaintiff. In terms of Order 22 Rule 10 CPC, where there has been a devolution of interest during the pendency of a suit, with the leave of the Court, it could be continued by or against the person, whose interest has come to be devolved. A *lis pendens* purchaser would be bound by whatever a decree that is passed against his or her vendor [See. **T.G.Ashok Kumar vs Govindammal (2010) 14 SCC 370**]. According to Mr.J.Michael Xavier Rowin, allowing the appeal is highly unlikely and he is confident that even without the presence of respondents 3 and 4, the appeal would be dismissed.

11.While I appreciate the confidence of the learned Counsel for respondents 3 and 4, insofar as the Code of Civil Procedure is concerned, since leave of the Court is necessary to implead the subsequent purchaser, I.A.No.4 of 2021 came to be presented. Even if the *lis pendens* purchaser is



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not a necessary party, he would be a proper party [See. **Amit Kumar Shaw and another vs Farida Khatoons and another, (2005) 11 SCC 403**].

This would give them an opportunity to defend the title of his vendor. The vendor, having sold the property to the third respondent, would have lost all the interests in the litigation. It is in the interest of the purchasers that they come on record. Since Order 22 Rule 10 CPC applies, I am of the opinion that the order passed by the first appellate Court requires to be set aside.

12. Accordingly, this Civil Revision Petition stands allowed. The order passed by the learned Subordinate Judge, Theni, in I.A.No.4 of 2021 in A.S.No.1 of 2014, dated 13.06.2022 is set aside. I.A.No.4 of 2021 in A.S.No. 1 of 2014 is allowed. The respondents 3 and 4 are impleaded as parties to the regular appeal.

13. The Counsel for the petitioners shall file necessary amendment application and the amended appeal grounds within 15 days from the date of receipt of a copy of this order before the learned Subordinate Judge, Theni. The learned Subordinate Judge, Theni, shall hear the arguments of the appellants and the respondents and pronounce the judgement by 15.06.2026.



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14.It is represented that the second petitioner, L.Sarojini, the legal heir of the second defendant/Subban Chettiar has also passed away. The learned Subordinate Judge will take note that the legal heir merely represents the estate of the deceased. As the Civil Revision Petitioners 1 and 3, namely, C.Jothimani and S.Nagarajan, represents the estate of Subban Chettiar, the Court need not wait for the appellants to bring on record the legal heirs of the legal heir of L.Sarojini. The estate is substantially represented by the presence of C.Jothimani and S.Nagarajan [See. ***Muthuraman Chettiar vs Adaikappa Chettiar (1934) SCC OnLine Mad 143***, as confirmed in ***A.P.L.M.P.L. Muthuraman Chettiar vs Adaikappa Chety, 1935 SCC OnLine Mad 309***].

15.The learned Subordinate Judge shall receive a memo from the appellants/contesting respondents, namely, the newly impleaded respondents 3 and 4. It shall adhere to the time limit fixed under this judgment. A decade and half is enough and more for a litigation to be completed. No costs. Consequently, connected miscellaneous petition is closed.



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16.Call on for the report of the learned Subordinate Judge, Theni, on
16.06.2026.

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NCC :Yes/No
Index :Yes/No
cmr

To

The Subordinate Judge, Theni.



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V.LAKSHMINARAYANAN, J.

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