



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1284 of 2012

and

M.P(MD)No.1 of 2014

1.Jeyarathi Chandrabhai
Rajkumar @ Chandra

2.Selvam ... Petitioners/Appellants/
Petitioners/3rd party

Vs.

1.Veluchamy ... 1st Respondent/1st Respondent/
1st Respondent/Auction Purchaser
Thilagavathi (Died)

2.Subburam Assari ... 2nd Respondent/3rd Respondent/
3rd Respondent/Defendants

3.Maragatham

4.Chandrasekaran @ Chandru ... Respondents 3 & 4/Respondents 4 & 5/
Respondents 4 & 5/
LR's of the Plaintiff

PRAYER : Civil Revision Petition filed under section 115 of the Civil Procedure Code against the fair and decretal order passed in C.M.A.No.42 of 2010 on the file of the II Additional Sub Court, Madurai dated 25/12/2011 confirming the fair and executable order passed in E.A.No.209 of 2004 in E.P.No.106 of 1992 in O.S.No.455 of 1986 dated 05/06/2010 on the file of the District Munsif Court, Thirumangalam.

For Petitioner : Mr.A.George Raja
for Ajmal Associates

For R-1 : Died

For R-2, R-3 & R-4 : No appearance



ORDER

The present revision petition has been filed challenging an order rejecting a claim application. The present petitioner is the third party to the suit. The plaintiff had filed O.S.No.455 of 1986 before the District Munsif Court, Tirumangalam on 22.08.1986. These disputed properties were attached by way of an order of attachment before judgment in the year 1986. While the order of attachment was subsisting, the revision petitioner/third party has purchased the disputed property from the defendant on 19.03.1987. According to the revision petitioner, the order of attachment was raised on 17.11.1988. The suit came to be decreed on 13.04.1989. Thereafter, the plaintiff has filed E.P.No.106 of 1992. When the execution proceedings were pending, the third party has filed E.A.No.209 of 2004 making a claim over the property on the ground that he has purchased the suit schedule properties on 19.03.1987 and the subsequent order of attachment during the execution proceeding is bad on the ground that when the judgment debtor was not the owner of the property on the date when the attachment order was passed.

2. The trial Court as well as the Appellate Court have arrived at a finding that when the third party/revision petitioner has purchased the suit schedule properties on 19.03.1987, when the order of attachment before judgment was in subsistence.

3. As per Section 64 of the Civil Procedure Code, whenever a private alienation of property takes place after the order of attachment, the said alienation is void. When sale deed alleged to be in favour of the third party revision petitioner, dated 19.03.1987 is void, the question of making a claim petition under Order 21, Rule 97 does not arise. The Courts below have rightly dismissed the application. I do not find any merits in this case. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

btr

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate /



litigant concerned.

TO

1. The II Additional Sub Judge,
Madurai.

2. The District Munsif,
Thirumangalam.

Copy to:

The Record Keeper,
V.R. Section,

Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-17688
dated 11/04/2022)

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RK(02/06/2022) 3P 6C