



*C.M.A.No.424 of 2022, C.M.A.No.1385 of 2021,
C.M.A.Nos.1606, 1334 and 454 of 2013, W.P. No.5512 of 2022
and C.R.P.No.1807 of 2023*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.09.2023
Pronounced on : 22.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**C.M.A.No.424 of 2022, C.M.A.No.1385 of 2021, C.M.A.Nos.1606,
1334 and 454 of 2013, W.P.No.5512 of 2022 and
C.R.P.No.1807 of 2023 and
M.P.No.1 of 2013, C.M.P.No.7126 of 2021, C.M.P.Nos.2946, 18054 and
22633 of 2022 and C.M.P.No.11656 of 2023 and
W.M.P.No.5594 of 2022**

1.C.M.A.No.424 of 2022

- 1.R.Sundaram HUF Account,
Rep. by R.Sundaram,
207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.
2. SVFC Communications,
Rep. by R.Sundaram
207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad
Coimbatore.
- 3.SVFC Agencies,
Rep. by R.Sundaram,
207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.



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4.Sri VenkatesaPerumal Finance Corporation,
Rep. By R.Sundaram,
207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.

5.SVFC Group Of Companies
Rep. by R.Sundaram,
207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.

6.SreeVasunthara Textiles,
Rep. by R.Sundaram,
207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.

7.Jai Maata De Finance and Investments,
Rep. by R.Sundaram,
207 SVFC Complex 1st Floor,
100 feet road, Tatabad,
Coimbatore.

8.R.Sundaram,

9.S.Kayalvizhi,

...Appellants

Vs

1.The Competent Authority and
District Revenue Officer,
Coimbatore.



*C.M.A.No.424 of 2022, C.M.A.No.1385 of 2021,
C.M.A.Nos.1606, 1334 and 454 of 2013, W.P. No.5512 of 2022
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2. M.Govindaraj,

3.K.Dhanabal,

4.R.Muthulakshmi,

5.Rajarajeswari @ Rajee

6.D.Vidhya,

7.S.Radha Krishnan,

8.M/w.Shivalaya Promoters,
Rep. by Varadharaj
S/o.Thannasikonarand
C.K.Kannan, S/o.Krishnasamy,
Door No.6, Plot No.20,
Senkottaiah Colony,
Saradha Mill Road,
Sundarapuram Post,
Coimbatore – 641 024.

9.Varadharaj,

10.K.Kannan

11.M/s.Best Real Estates
Rep. By Martin
S/o. Sandhiyagu
Door No.355, 6th Street,
Gandhipuram, Coimbatore-12.

12.S.Martin,

13.S.Joseph `

14. C.Mahalakshmi



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15. C.Harithalakshmi

...Respondents

(* R14 and R15 impleaded vide order of this Court (SMJ) dated
21.09.2023 made in C.M.P.No.9708 of 2023 in C.M.A.No.424 of 2022)

Prayer: This Civil Miscellaneous Appeal have been filed under Section
11 of the Tamil Nadu Protection of Interests of Depositors (In Financial
Establishments) Act, 1997, against the fair and decretal Order dated
28.08.2020 made in O.A.No.13 of 2009 on the file of the Learned Special
Judge, Special Court under TNPID Court, Coimbatore.

For Appellants : Mr. N.Manokaran

For Respondents:

For R1 : M/s. J. Subbiah,
Government Advocate

For R11 & 12 : M/s. AL. Ganthimathi,
Senior Counsel
for M/s. C.Santhosh Kumar

For R14 & 15 : M/s. K. Govi Ganesan

For R3 to R5
& R7 : No Appearance

For R2 & R6 : Notice not ready

2. C.M.A.No.1385 of 2021

1. M/s. Best Real Estates
Door No.355, 6th Street,
Gandhipuram, Coimbatore-12.
Represented by S.Martin S/o. Sandhiyagu



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2.S.Martin,

3.S.Joseph(died)

4.J.A.Anbu Roase

5. Pradeepa Albert Selvam

6. Charline J

*(*Appellants 4 to 6 brought on
record as Lrs of the deceased
Appellant-3 – Viz S.Joseph vide
Court order dated 16.08.2021
made in C.M.P.No.11653 of 2021
in C.M.A.No.1385 of 2021)*

Vs.

1.The Competent Authority and
The District Revenue Officer,
Coimbatore.

2.R.Sundaram HUF Account,
Rep. by Sl.No.8 R.Sundaram,
D.No.207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore.

3. SVFC Communications,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad
Coimbatore.
Rep.by Sl.No.8 R.Sundaram



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4.SVFC Agencies,

D.No.207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad, Coimbatore.
Rep.by Sl.No.8, R.Sundaram.

5.Sri Venkatesa Perumal Finance Corporation,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad, Coimbatore
Rep.by Sl.No.8 R.Sundaram

6.SVFC Group of Companies

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad, Coimbatore.
Rep.by Sl.No.8 R.Sundaram.

7.SreeVasunthara Textiles,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad, Coimbatore.
Rep.by Sl.No.8 R.Sundaram

8.Jai Maata De Finance and Investments,

D.No.207 SVFC Complex 1st Floor,
100 feet road, Tatabad, Coimbatore.
Rep. by Sl.No.8, R.Sundaram

9.R.Sundaram

10.S.Kayalvizhi

11. M.Govindaraj,

12.K.Dhanabal,

13.R.Muthulakshmi,



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14.Rajarajeswari @ Rajee

15.D.Vidhya,

16.S.Radha Krishnan,

17.M/w.Shivalaya Promoters,
Rep. by Varadharaj
S/o.Thannasikonar and
C.K.Kannan, S/o.Krishnasamy,
Door No.6, Plot No.20,
Senkottaiah Colony,
Saradha Mill Road,
Sundarapuram Post,
Coimbatore – 641 024.

18.Varadharaj,

19.K.Kannan

Prayer: This Civil Miscellaneous Appeal has been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, against the Order dated 28.08.2020 passed in O.A.No.13 of 2009 on the file of the Learned Special Judge, Special Court under TNPID Court, Coimbatore.

For Appellants : M/s. AL.Ganthimathi,
Senior Counsel for
M/s. C. Santhosh Kumar

For Respondents:

For R1 : M/s. J. Subbiah
Government Advocate



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For R2 to R10 : Mr. N. Manokaran

For R11 to R19 : Notice not ready

3. C.M.A.No.1606 of 2013

- 1.R.Sundaram HUF Accounts,
D.No.207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore
Rep. by R.Sundaram
- 2.S.V.F.C Communication,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad
Coimbatore.
Represented by R.Sundaram
- 3.SVFC Agencies,
D.No.207, SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,
- 4.Sri Venkatesa Perumal Finance Corporation,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore
Rep. By R.Sundaram,
- 5.SVFC Group Of Companies,
D.No.207 SVFC Complex, 1st Floor,



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100 Feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,

6.SreeVasunthara Textiles,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore
Rep. by R.Sundaram,

7.Jai Maata De Finance and Investments,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,

8.R.Sundaram,

...Appellants

Vs

1.The Competent Authority and
The District Revenue Officer,
Coimbatore.

...Respondent/Applicant

2.S.Kayalvizhi

3.M.Govindaraj,

4.K.Dhanabal,

5.R.Muthulakshmi,

6.Rajarajeswari @ Raji



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7.D.Vidhya,

...Respondents/Accused

Prayer: This Civil Miscellaneous Appeal have been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, against the Order made in I.A.No.4 of 2011 dated 05.07.2012 passed by the Special Court for Protection of Interest of Depositors.

For Appellants : Mr. N. Manokaran

For Respondents:

For R1 : M/s. J. Subbiah
Government Advocate

For R3 to R5 & R7 : No Appearance

For R2 & R6 : Notice Not Ready

4.C.M.A.No.1334 of 2013

1.R.Sundaram HUF Accounts,
D.No.207 SVFC Complex, 1st Floor,
100 Feet Road, Tatabad,
Coimbatore

2.S.V.F.C Communication,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad
Coimbatore
Represented by R.Sundaram



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C.M.A.Nos.1606, 1334 and 454 of 2013, W.P. No.5512 of 2022
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3.SVFC Agencies,

D.No.207, SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.

Rep. by R.Sundaram,

4.Sri Venkatesa Perumal Finance Corporation,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore

Rep. By R.Sundaram,

5.SVFC Group Of Companies,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.

Rep. by R.Sundaram,

6.SreeVasunthara Textiles,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore

Rep. by R.Sundaram,

7.Jai Maata De Finance and Investments,

D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.

Rep. by R.Sundaram,

8.R.Sundaram,

...Appellants

Vs



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C.M.A.Nos.1606, 1334 and 454 of 2013, W.P. No.5512 of 2022
and C.R.P.No.1807 of 2023*

1.The Competent Authority and
The District Revenue Officer,
Coimbatore.

2.S.Kayalvizhi

3.M.Govindaraj,

4.K.Dhanabal,

5.R.Muthulakshmi,

6.Rajarajeswari @ Raji

7.D.Vidhya,

...Respondents

Prayer: This Civil Miscellaneous Appeal have been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, against the Order made in O.A.No.12 of 2012 dated 08.03.2013 passed by the Special Court for Protection of Interest of Depositors.

For Appellants : Mr. N. Manokaran

For Respondents:

For R1 : M/s. J. Subbiah
Government Advocate

For R3 to R5 & R7 : No Appearance

For R2 & R6 : Notice Not Ready



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5.C.M.A.No.454 of 2013

- 1.R.Sundaram HUF Accounts,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore
Represented by R.Sundaram
- 2.S.V.F.C Communication,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad
Coimbatore
Represented by R.Sundaram
- 3.SVFC Agencies,
D.No.207, SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,
- 4.Sri Venkatesa Perumal Finance Corporation,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore
Rep. By R.Sundaram,
- 5.SVFC Group Of Companies,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,
- 6.SreeVasunthara Textiles,
D.No.207 SVFC Complex, 1st Floor,



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C.M.A.Nos.1606, 1334 and 454 of 2013, W.P. No.5512 of 2022
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100 feet Road, Tatabad,
Coimbatore
Rep. by R.Sundaram,

7.Jai Maata De Finance and Investments,
D.No.207 SVFC Complex, 1st Floor,
100 feet Road, Tatabad,
Coimbatore.
Rep. by R.Sundaram,

8.R.Sundaram,

...Appellants

Vs

1.The Competent Authority and
The District Revenue Officer,
Coimbatore.

2.S.Kayalvizhi

3.M.Govindaraj,

4.K.Dhanapal,

5.R.Muthulakshmi,

6.Rajarajeswari @ Raji

7.D.Vidhya,

...Respondents



*C.M.A.No.424 of 2022, C.M.A.No.1385 of 2021,
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Prayer: This Civil Miscellaneous Appeal has been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, against the Order made in O.A.No.3 of 2012 dated 19.10.2022 passed by the Special Court for Protection of Interest of Depositors.

For Appellants : Mr. N. Manokaran

For Respondents:

For R1 : M/s. J. Subbiah
Government Advocate

For R3 to R5 & R7 : No Appearance

For R2 & R6 : Notice Not Ready

6.W.P.No.5512 of 2022

1.R.Sundaram

...Petitioner

Vs.

1.The State of Tamilnadu
Represented by its Secretary to Government,
Home (Public) Department,
Secretariat,
Chennai – 600 009.

2. The District Collector
Collectorate,
Coimbatore – 641 018,
Coimbatore District.



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3. The District Revenue Officer,
Collectorate,
Coimbatore – 641 018,
Coimbatore District.
4. The District Revenue Officer,
Collectorate, Dindugal – 624 001,
Dindugal District.
5. The Deputy Superintendent of Police,
Economic Offences Wing II,
Police Commissioner Office,
Coimbatore – 641 018
(Crime Nos.9, 14 to 18 & 20/2006)

...Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, seeking to issue Writ of Mandamus directing the respondents to permit me to arrange buyers to sit and negotiate with the respondents for the sale of the properties under attachment in G.O.Ms.No.1156 dated 01.12.2006 and G.O.Ms.No.5, dated 02.01.2008 passed by the 1st respondent to settle the depositors in CC.Nos. 81, 82, 84 to 87 and 100 of 2008 pending on the file of the learned Special Court for TNPID Act Cases, Coimbatore.

For Petitioners

: Mr. N. Manokaran

For Respondents :

For R1 to R5

: M/s. J. Subbiah

Government Advocate



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7. C.R.P.No.1807 of 2023

1. S.Kalaivizhi
- 2.Durga
- 3.R.Sundaram

...Petitioners

Vs.

- 1.C.Mahalakshmi
- 2.C.Harithalakshmi
- 3.Saroja
- 4.Kalaiselvi
- 5.K.G.Chittrambalam
- 6.Karthika
- 7.Adthiya Devi
- 8.M.Jayakrishna
- 9.M/s.Best Real Estates
Rep. By Martin
S/o. Sandhiyagu
Door No.355, 6th Street,
Gandhipuram, Coimbatore-12.

Prayer : Civil Revision Petition has been filed under Article 227 of the
Constitution of India, seeking to strike off the Suit in O.S.No.125 of 2016
on the file of the Fifth Additional District Court, Coimbatore.

For Appellants : Mr. N.Manokaran

For Respondents:

For R1 and R2 : Mr.Sriram for
Mr. K. Govi Ganesan



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For R3 and R4 : Mr.K.Govi Ganesan

For R9 : M/s. AL. Ganthimathi
Senior Counsel
for M/s. C. Santhosh Kumar

For R5 to R8 : Notice Not Ready

COMMON JUDGMENT

The issues involved in all the above appeals and the petitions are connected and hence, the above cases were clubbed together pursuant to the orders of the Hon'ble Chief Justice. Hence, they are heard together, and a common order is passed. Since the rank of the parties would be different in the above appeals and the petitions, the parties are referred to by their names for the sake of convenience.

2(a). Mr.R.Sundaram, who is the appellant in all the Civil Miscellaneous Appeals except in one C.M.A and the petitioner in the above Writ Petition and the Civil Revision Petition, was running seven proprietary concerns. He had collected deposits from the general public through the said concerns and defaulted in the repayment of deposits. The Economic Offences Wing-II, Coimbatore, registered seven First



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Information Reports against him under Section 5 of the TNPID Act, 1997 and Section 420 of the Indian Penal Code, 1860, in Crime Nos. 9, 14 to 18 and 20 of 2006. The Government by virtue of power conferred by Section 3 of the TNPID Act, 1997 issued an order of interim attachment in G.O.Ms.No.1156 Home (Courts II A) Department, dated 01.12.2006, in respect of two items of properties belonging to Mr.R.Sundaram. The Government after further verification passed another order bearing G.O.Ms.No.5, Home (Police – XIX) Department, dated 02.01.2008, for interim attachment of thirty-three items of properties belonging to the said Mr.R.Sundaram. The Government also passed G.O.Ms.No.78, Home (Police XIX) Department, dated 28.01.2010, amending the G.O.Ms.No.5, Home (Police – XIX) Department dated 02.01.2008, in respect of the extents and Survey Nos. pertaining to certain items of the properties sought to be attached.

2(b). In the meanwhile, the said Mr.R.Sundaram, had sold the property measuring 20.16 Acres at Orattukuppai Village, Coimbatore South Taluk, Coimbatore District (The second item of the property attached by the Government in G.O.Ms.No.1156 Home (Courts IIA) Department,



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dated 01.12.2006, through a power agent by name Mr.S.Joseph, by Sale Deed dated 01.11.2006, registered on 07.03.2007, bearing Doc.No.1583 of 2007, in favour of one M/s.Best Real Estates.

2(c).The Competent Authority under the TNPID Act, 1997, filed applications for making the interim order of attachment absolute in O.A.No.12 of 2012 and O.A.No.13 of 2009. The Competent Authority filed O.A.No.12 of 2012 with the delay of 925 days and hence, filed I.A.No.4 of 2011, to condone the delay. The said application was allowed by the learned Special Judge, Special Court under TNPID Act, Coimbatore, by the order dated 30.09.2010. Mr.R.Sundaram filed **C.M.A.No.1606 of 2013**, challenging the said order.

2(d). As stated earlier, G.O.Ms.No.1156 Home (Courts IIA) Department, dated 01.12.2006, was in respect of two properties. The second item is land measuring 20.16 Acres. The first item of the property is land measuring 17,140 cents and building measuring 11,400 sq.ft., thereon. The first item was under mortgage with one Bank of India, Coimbatore. The Bank of India had filed a W.P.No.29773 of 2007, before this Court challenging the attachment. This Court quashed the order of



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attachment by the order dated 19.11.2008 and permitted the bank to sell the property and appropriate the sale consideration towards its dues and pay the balance to the competent authority for distribution amongst the depositors. Accordingly, after the sale of the property and appropriating a portion of the sale consideration towards its dues, the Bank of India transferred Rs.2,20,78,000/- to the Competent Authority. The Competent Authority on receipt of the said sum, filed O.A.No.3 of 2012, before the learned Special Judge, Special Court under TNPID Act, Coimbatore, seeking permission to distribute the said sum to the depositors equitably. The said application was allowed on 09.01.2012. Mr.R.Sundaram filed **C.M.A.No.454 of 2013** challenging the said order.

2(e) O.A.No.12 of 2012 filed for making the interim attachment in G.O.Ms.No.5, Home (Police – XIX) Department dated 02.01.2008 absolute was allowed by the order dated 08.03.2013 and hence, the said Mr.R.Sundaram had filed **C.M.A.No.1334 of 2013**, against the said order.

2(f). Thereafter, O.A.No.13 of 2009, filed by the Competent Authority for making the interim order of attachment of the property



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measuring to an extent of 20.16 Acres in Orattukuppai Village, Coimbatore was taken up for consideration. M/s.Best Real Estates, filed a counter stating that since this Court had quashed the G.O.Ms.No.1156 Home (Courts IIA) Department, dated 01.12.2006, in W.P.No.29773 of 2007, the petition to make the order of attachment absolute is not maintainable; that the first appellant had sold the property through his power agent to M/s. Best Real Estates for valid consideration who have nothing to do with the financial institutions run by Mr. R.Sundaram and hence, the order of attachment cannot be made absolute. The other respondents including the said Mr.R.Sundaram objected to the attachment being made absolute on various grounds. The Special Court, Coimbatore, after taking into consideration the evidence on record held that the attachment of the property is liable to be made absolute. The Special Court, Coimbatore also held that the sale in favour of the M/s.Best Real Estates was not a bonafide transaction since they had purchased the property after the FIRs were registered. Aggrieved by the said order, Mr.R.Sundaram has filed **C.M.A.No.424 of 2022**. M/s.Best Real Estates aggrieved by the finding that their purchase was not bonafide have filed **C.M.A.No.1385 of 2021**.



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2(g). In the meanwhile, the Legal Heirs of one of the vendors who sold the property measuring 20.16 acres (The second item in G.O.Ms.No.1156 Home (Courts IIA) Department, dated 01.12.2006) to Mr.R.Sundaram filed a Suit in O.S.No.125 of 2016, on the file of the learned District Judge, Coimbatore, for declaring the Sale Deed executed by their father along with their siblings in favour of the said Mr.R.Sundaram and the subsequent Sale Deed in favour of M/s. Best Real Estates by Mr.R.Sundaram, as not binding on them. They had also sought for partition of the said property. Mr.R.Sundaram had filed **C.R.P.No.1807 of 2023**, under Article 227 of the Constitution of India to strike off the Suit in O.S.No.125 of 2016, before the V Additional District Court, Coimbatore, on various grounds.

2(h). The said Mr.R.Sundaram also filed **W.P.No.5512 of 2022**, praying for a direction to the respondent to permit him to sell the properties attached under two G.O.Ms.Nos.5 and 1156, referred above to enable him to settle the depositors.



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3. When the matters were taken up for hearing earlier, this Court had appointed an Advocate Commissioner to oversee the auction sought to be conducted by the Competent Authority pursuant to the orders making the attachment absolute, which are impugned in three of the present Civil Miscellaneous Appeals. Accordingly, on 25.09.2022, a public auction notice was published, by the learned Advocate Commissioner and the Competent Authority, for the auction to be held on 18.10.2022. The three properties sought to be sold were:

(a) 20.16 Acres in Orattukuppai Village, Coimbatore (item (ii) property in G.O.Ms.No.1156) (hereinafter referred to as Item 'A' property)

(b) 41.98 Acres in Pallapatti Village (hereinafter referred to as Item 'B' property)

(c) 7.42 Acres in Narasimmanaickenpalayam. (hereinafter referred to as Item 'C' property)

(Item 'B' and 'C' properties were attached by G.O.Ms.No.5, Home (Police – XIX) Department dated 02.01.2008,). Thereafter, on 20.10.2022, the learned Advocate Commissioner had filed a report regarding the auction sale with the details of the highest bidders. M/s.Best Real Estates did not participate in the said auction. On 28.10.2022, this



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Court directed the highest bidders to enhance their bid. At that stage, M/s. Best Real Estates, also participated in that bid. M/s. Best Real Estates, were the highest bidder in respect of Items “A” and “C” of the properties mentioned above. Their bid was Rs.16 Crores for Item A property and Rs. 8.10 Crores for Item C property. One Mr.A.Murugesan was the highest bidder for item “B” property at Rs. 4 Crores. This Court directed the highest bidders to deposit the bid amount to the credit of the Competent Authority. This Court observed that M/s.Best Real Estates, would be entitled to return of Rs.1.35 Crores paid by them as sale consideration to Mr.R.Sundaram in 2006 from the amount deposited by them. This Court also had directed the Competent Authority not to distribute the amount deposited to the depositors since there were some disputes in respect of item “A” property. Admittedly, M/s. Best Real Estates, have deposited Rs.16 Crores for item “A” property and Rs.8.10 Crores for item C property. Mr.A.Murugesan who was the highest bidder for the item “B” property has not deposited the bid amount.

4. At this stage, the learned counsels were heard finally in all these Civil Miscellaneous Appeals, Writ Petition and Civil Revision Petition.



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Before advertng to the rival submissions, this Court finds that some of the Civil Miscellaneous Appeals have become infructuous. C.M.A.No.1606 of 2013, challenging the order condoning the delay in filing the application for making the interim order of attachment absolute has become infructuous, since the Special Court, Coimbatore had subsequently passed an order in the main original application which is also under challenge. In view of the same, **C.MA.No.1606 of 2013 is dismissed as infructuous.** Likewise, C.M.A.No.454 of 2013, challenging the order permitting the Competent Authority to distribute Rs.2 Crores equitably to the depositors, has become infructuous, since the money is being distributed to the depositors. The status report filed by the Competent Authority also confirms the said fact. In view of the same, the **C.M.A.No.454 of 2013** is also dismissed as infructuous. Further the Writ Petition filed by Mr.R.Sundaram, seeking permission to make private sales also has become infructuous as the property has been sold subsequently by this Court, the sale consideration of which is sufficient to satisfy the claims of the depositors. Hence, **W.P.No.5512 of 2022** is dismissed as infructuous.



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5. Mr.N.Manokaran, the learned counsel for the appellant in all Civil Miscellaneous Appeals and the petitioner in the Writ Petition and Civil Revision Petition submitted that in view of, the subsequent development pending the appeals namely, the sale of the properties, pursuant to the directions of this Court, the points raised by Mr.R.Sundaram in the other Civil Miscellaneous Appeals need not be gone into. He further submitted that the sale consideration of the properties deposited by M/s.Best Real Estates would be sufficient to satisfy the creditors. However, the sale consideration deposited by the creditors could not be distributed to the depositors since there is a Suit pending in O.S.No.125 of 2016 on the file of the learned District Judge, Coimbatore in respect of Item “A” property and M/s.Best Real Estates expressed their apprehension that they would not acquire valid title, in view of the same. Therefore, Mr.R.Sundaram filed C.R.P.No.1807 of 2023 to strike off the Suit in O.S.No.125 of 2016 before the learned V Additional District Court, Coimbatore. The learned counsel submitted that the Suit is vexatious and it would not affect the title of M/s.Best Real Estates. However, if the Suit is struck off, M/s.Best Real Estate, may not have any apprehension regarding title. The learned counsel therefore,



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submitted that the plaint in O.S.No.125 of 2016, is liable to be struck off for the following reasons.

(a) The Suit is vexatious and has been filed at the instance of one Mr.Chithrambalam, father of the plaintiffs. The sale in favour of Mr.R.Sundaram was made in the year 2001 by the father of the plaintiffs along with his siblings. When the Suit was filed, the plaintiffs were aged 20 and 15, which would make it clear that Suit is a collusive one at the instance of their father.

(b) The Suit property i.e., 20.16 Acres consisted of two portions. The first portion of 12.96 acres belonged to one Mr.G.Palanisamy, the Great Grandfather of the plaintiffs who acquired it by virtue of a partition deed bearing Doc.No.241 of 1940. The second portion of 7.20 Acres, belonged to the wife of the said Palaniswamy who acquired it by exchange deed bearing Doc.No.590 of 1978. The learned counsel referred to the following genealogical tree to explain the flow of the title.



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GENEALOGICAL TREE

G.Palanisamy Partition Deed (Doc.No.241/1940)

(Died) (26.02.1998)

I) SF 59/1	– 0.28 Acres
II) SF 40/2B2	– 0.20 Acres
III) SF 49/1	– 8.06 Acres
IV) SF 40/2B2	– 4.42 Acres

?

Total - 12.96 Acres

(Wife)

Velammal Exchange Deed (Doc.No.590/1978)

(Died) (24.04.1989)

I) SF 47/2A	– 1.00 Acres
II) SF 48/2B	– 6.20 Acres

Total - 7.20 Acres

(Son)

Govindaraju Naidu

(Died) (23.12.1994)

?

(Wife) Sarojini (D1)

?-----?-----?-----?

Kalaiselvi (D2)	Chitrabalam(D3)	Kayalvizhi(D4)	Mounaguru
?	?	?	?
1.Karthick (D6)	1. Mahalakshmi(P1)	1.Minor Durga	Jayakrishna
2. Adithya Devi (D7)	2. Harithalakshmi	(D5)	(D8)
	(P2)		
	(Plaintiffs)		



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The learned counsel thus submitted that Mr.Govindarajulu Naidu, the grandfather of the plaintiff acquired the property of 7.20 Acres from his mother and therefore, it is not an ancestral property. The children (two sons and two daughters) of Mr.Govindarajulu Naidu, named in the genealogical table above inherited it and therefore, their children have no right over the property by birth. Even in respect of the great grandfather's property the plaintiffs have no right over the property, since after the partition of the property in 1940, it became the absolute property of Mr.Govindarajulu and his father. The learned counsel submitted that even otherwise, the plaintiffs who would at best get 52 cents, assuming without admitting that they had acquired a right by birth.

(c) The learned counsel further submitted that the said Mr.R.Sundaram and other defendants in the Suit had stated in their written statement that the property was attached by the Government and was not available for partition. Hence the plaintiffs were aware of the attachment and yet they chose not to participate in the original application before the Special Court to make the attachment absolute. The learned counsel submitted that the attachment was made absolute ultimately on



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29.08.2020, and plaintiffs had not objected to the attachment in spite of their knowledge of the attachment proceedings; and that hence, the property is not available for partition and therefore, no useful purpose would be served by allowing the suit to continue. The learned counsel also relied upon the following Judgments of this Court and that of the Hon'ble Supreme Court elaborating on the power vested with this Court under Article 227 of the Constitution of India for striking off the plaint:

- (i) *Virudhunagar Hindu Nadargal Dharma Paribalanai Sabai Vs. Tuticorin Educational Society* reported in 2019 (9) SCC 538
(ii) *Saraswathy Ammal and others V.Govindan and others* reported in 2020(6) MLJ 624 (iii) *T.P.Kathiresan and others Vs. R.Ramadass* reported in 2020 (5) MLJ 748 (iv) *Surya Dev Ram Vs. Ram Chander Rai and others* reported in 2003 (6) SCC 675.

(d).The learned counsel therefore, submitted that if the Suit is struck off, the auction purchaser would acquire title free of encumbrance; and that this would give a quietus to the issue and the depositors would be able to realize their money at least now.



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6. M/s.AL.Ganthimathi, learned Senior Counsel for M/s.Best Real Estate, the auction purchaser, submitted that pursuant to the auction conducted by this Court, they had deposited Rs.24.10 Crores and submitted that if they did not get a valid title, they would be put to untold hardship and suffering. Hence, the learned Senior Counsel submitted that the Civil Revision Petition may be allowed. However, in the event of this Court dismissing the Civil Revision Petition filed to strike off the Suit, it would have a cloud on their title and which would be subject to the result of the Suit. Hence, the learned Senior Counsel prayed for cancelling the auction sale and for return of the money deposited by them. The learned counsel further submitted that in the event of this Court, confirming the auction sale, the sale consideration paid by them in the year 2006 to Mr.R.Sundaram to the tune of Rs.1.35 Crores may be returned to them together with interest as per the order of this Court dated:28.10.2022 which is referred to in the earlier part of this Judgment. The learned counsel also filed a calculation sheet giving the details of the interest amount that they are entitled to for the said sum of Rs.1.35 Crores.



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7. Mr.Sriram learned counsel for respondents 1 and 2 in C.R.P.No.1807 of 2023 (the plaintiffs 1.Mahalakshmi and 2.Harithalakshmi in O.S.No. 125 of 2016) per contra, submitted that the Suit cannot be struck off as the Suit is maintainable; that the Sale Deeds executed by their father along with his siblings are voidable, since the sale made when they were minors was not for any legal necessity, benefit of the estate or with the consent of all coparceners of the family; that the points raised by the petitioner with regard to right of the respondents 1 and 2 in the Suit property involved mixed questions of law and facts and hence, a petition under Article 227 of Constitution of India is not maintainable; that the said Mr.R.Sundaram had earlier filed an I.A.65 of 2017, before the Trial Court for rejection of plaint under Order VII Rule 11 of C.P.C., on the very same grounds and the said application was dismissed by the Trial Court by its Order dated 27.07.2017; that the learned Trial Judge had elaborately considered all the submissions and held that the Suit was maintainable; that the petitioner Mr.R.Sundaram had not challenged the said Order and hence, the Civil Revision Petition is not maintainable and prayed for its dismissal.



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8. Mr.N.Manokaran, learned counsel objected to the claim made on behalf of the M/s.Best Real Estates, for interest for the sale consideration paid by them in the year 2007. The learned counsel submitted that the Special Court found that the sale was not a genuine transaction and as such M/s.Best Real Estates would not be entitled to return of the sale consideration itself. In such circumstances, their claim for interest cannot be accepted.

9. From the narration of facts above and the contentions of the learned counsels on either side, and in view of the subsequent developments pending disposal of the above Civil Miscellaneous Appeals (i.e.,) sale of the property by this Court, the only issue involved in the instant appeal is whether pursuant to the auction sale conducted by the Court, the auction purchaser M/s. Best Real Estates acquired valid title to the Item “A” Property. If the auction purchaser had acquired valid title, then the question of returning the money deposited by them does not arise. The money deposited by them would satisfy the claim of the depositors. There is no necessity for bringing the other properties for sale. There is a Suit filed by the respondents 1 and 2 in O.S.No.125 of 2016 in respect of



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item “A” property. In respect of item “C” property, there is no litigation pending and therefore, there is no difficulty in holding that the auction purchaser has valid title over the property. In respect of item "B" of the property, one Mr.A.Murugesan who was the successive bidder had not deposited the property and hence, the said property remains unsold as of now.

10. Therefore, the question is whether the pendency of the Suit would affect the title of the auction purchaser in respect of item “A” property, which is 20.16 Acres in Orattukuppai Village, Coimbatore. As stated earlier, the said property was attached by G.O.Ms.No.1156 Home (Courts IIA) Department dated: 1.12.2006. The interim attachment of the Government was made absolute after hearing all the parties concerned on 12.08.2020. In the meanwhile, the property was sold in favour of M/s. Best Real Estates privately in the year 2006. The Special Court found that the said sale was not genuine and hence, after considering the objections of M/s.Best Real Estates, confirmed the interim order of attachment. M/s.Best Real Estates who had participated in the auction sale and purchased the very same property, is unable to point out



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any infirmity in the finding of the Special Court. Therefore, this Court finds no reason to interfere with the said finding and holds that the sale made by Mr.R.Sundaram in the year 2006 after the FIR was registered against him, is not a genuine transaction.

11. The apprehension of M/s. Best Real Estates, that in view of the pending Suit, their rights would be affected, is not unfounded. Hence, that issue has to be decided. Admittedly, the vendors, including the father of the plaintiffs sold the property to Mr. R.Sundaram, in the year 2001. Whether the plaintiffs, who were minors then, acquired a portion of the property which belonged to their paternal great Grandfather by birth, is a question of fact and hence, cannot be determined in the instant Civil Revision Petition, filed for striking off the plaint. This Court, further finds that the plaintiffs filed the Suit in the year 2016 within two years from the date of the first plaintiff attaining majority. The first plaintiff attained majority in the year 2014. Therefore, the Suit cannot be said to be barred by limitation.



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12. However, it is seen that the property was attached by the Government, in the year 2006. When the Suit was filed in the year 2016 the interim order of attachment was in force. The defendants including Mr.R.Sundaram had filed their written statement in which they had submitted that the property was under attachment by the Government. Therefore, the plaintiffs acquired knowledge of the attachment on the date of filing of the written statement by one of the defendants dated (i.e.,) 22.11.2017. The Special Court, Coimbatore, after hearing the objections of the parties concerned had finally made the interim order of attachment absolute on 28.08.2020. But in spite of the plaintiffs' knowledge about the order of attachment and the pending proceedings for making the Order of attachment absolute, they had not chosen to participate and object to the attachment. The effect of not participating in the attachment proceedings in spite of knowledge would be that they would be disentitled to complain about the attachment and the subsequent order making it absolute. Once the attachment order is made absolute, no party who had knowledge and had not objected to the attachment, can claim right over the property. The Competent Authority with whom the property would vest has right to sell the property. In the instant case, the Competent Authority after the



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order of attachment being made absolute, had conducted a public auction pursuant to the orders of this Court in the above Civil Miscellaneous Appeals. This Court had thereafter, in order to enhance the bid of the highest bidders, conducted auction in the open Court and confirmed the bids. In such circumstances, this Court is of the view that the plaintiffs in O.S.No.125 of 2016, will have no right or claim in Item "A" Property which is the scheduled property in the said Suit. The submission of the learned counsel for the respondents 1 and 2/plaintiffs in the Suit that the Special Court, would have no jurisdiction to decide the questions of title, cannot be countenanced. The plaintiffs' right in the property and their objections can be considered by the Special Court as could be seen from the Scheme of the TNPID Act. Section 7 (3) of the TNPID Act, provides for objections by any party interested in the property whether or not notice has been served to him. It reads as follows:

"Any person claiming an interest in the property attached or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the Special Court at



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any time before an order is passed under sub-section (4) or sub-section (6)".

The plaintiffs who are aware of the attachment proceedings ought to have objected to the attachment, being made absolute in the terms of Section 7 (3) of the TNPID Act, 1997. If they had made their objections, the Special Court which is bound to consider their objections would have considered it and while doing so it could have exercised all the powers of a Court hearing a Suit as per Section 7 (5) of TNPID Act, 1997 which reads as follows:

"(5) If cause is shown or any objection is made as aforesaid the Special Court shall proceed to investigate the same, and in so doing, as regards the examination of the parties and in all other respects, the Special Court shall, subject to the provisions of this Act, follow the procedure and exercise all the powers of a Court in hearing a Suit under the Code of Civil Procedure, 1908 and any person making an objection shall be required to adduce evidence to show that at the date of the attachment he had some interest in the property attached."



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Thus, it is clear that the Special Court, is competent to decide the issues with regard to title by the virtue of the powers conferred under Section 7 (5) of the TNPID Act, 1997. The plaintiffs who had failed to do so cannot be allowed to maintain a Suit parallelly. It is no doubt true that their right to maintain a Suit cannot be denied. However, the TNPID Act, is a special enactment which gives power to the Government to attach properties belonging to the defaulters and provides for the Special Court to decide all objections to the attachment including any claim for title over the attached property by any third party. In this regard, it would be useful to refer to the observation to this Court ***M/s.Thirumuruga Finance and others Vs. State of Tamil Nadu*** reported in ***AIR 2000 Madras 137 and in 2000 (3) LW 298***. The relevant portion reads as follows:-

"40. As per Section 6 of the Act, for the enforcement of the provisions of the Act, the Government has to constitute a Special Court in the cadre of a District and Sessions Judge with the concurrence of the Chief Justice of the High Court. Sub-section (4) of Section 6 enables the Special Court, on any application made by the competent authority to pass such order or issue such direction



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as may be necessary for equitable distribution among the depositors of the money realised from and out of the property attached. Powers of the Special Court regarding attachment have been enumerated in Section 7 of the Act. On receipt of application under Section 4, from the competent authority, the Special Court is to issue notice accompanied by the application, affidavits and of the evidence, if any, recorded, to the Financial Establishment or to any other person whose property is attached by the Government under Section 3 calling upon him to show cause why the order of attachment should not be made absolute. Sub-section (2) of Section 7 enables the Special Court to issue such notice to all other persons represented to it as having or being likely to claim any interest or title in the property of the Financial Establishment to appear on the date as specified in the notice and pass orders after hearing all the parties concerned. As per Sub-section (3) any person claiming an interest in the property attached or any portion thereof may notwithstanding that no notice has been served upon him, make an objection to the Special Court at any time before an order is passed under Sub-



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section (4) of Section 6. As per Sub-section (4) if there is no sufficient cause and no objection is made before the specified date, the Special Court is expected to pass an order forthwith making the ad interim order of attachment absolute. As per Sub-section (5), if cause is shown or objection made, the Special Court is empowered to Investigate the same. For doing so, it is open to it to examine the parties, follow the procedure and exercise all the powers of a Court in hearing a suit under the Code of Civil Procedure, 1908. Likewise, any person making an objection can also adduce evidence to show that at the date of attachment he had some Interest in the property attached. Sub-section (6) enables the Special Court, after investigation under Sub-section (5), to pass an order either making the ad Interim order of attachment absolute or modifying the same by releasing a portion of the property from attachment. If it is satisfied it is open to the Special Court to cancel the ad interim order of attachment subject to the condition prescribed in the proviso to Sub-section (6). The reading of Sub-sections (1) to (6) of Section 7 shows that elaborate procedure is prescribed and it is open to the person affected or to be affected to make his/her



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submission to explain their case. It is also clear that, if the Special Court is satisfied, it has power to make the interim order of attachment absolute or modify the said order by releasing a portion of the property or even cancel the interim order of attachment. Hence, I agree with the contention of the learned Additional Advocate-General that, elaborate procedure has been prescribed under Section 7 of the Act."(emphasis supplied)

The reason for conferring such a power on the Special Court by the legislature is not far to seek. Once the Government identifies and attaches the property of the defaulters, claims made by persons interested in the property can be adjudicated by the Special Court in order to ensure that multiple proceedings in different Courts do not frustrate the object and purpose of the Act which is to satisfy the claim of the depositors at the earliest. In fact, this process of settling the claim of the depositors can be done independent of the criminal proceedings. Therefore, in the circumstances, the plaintiffs in the suit who were aware of the attachment proceedings pursuant by the Government, ought to have participated in the proceedings before the Special Court. Having allowed the Special Court to



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confirm the order of attachment, the plaintiff cannot pursue a claim for the property in a suit as it is no longer available for partition. The property is vested with the Competent Authority, on the date of attachment being made absolute. The subsequent sale pursuant to the orders of this Court also confirms the fact that the property is no longer available for partition. Therefore, from the above discussion, it is clear that the auction purchaser M/s.Best Real Estates would acquire valid title over both item “A” and item “C” property and the Suit in O.S.125 of 2016, would not affect their title in any manner.

13. Be that as it may. Pursuant to the attachment orders and sale made which this Court has held to be valid, as stated earlier item “A” property is no longer available for partition. This Court is conscious that the power under Article 227 of the Constitution of India, cannot be exercised ordinarily when alternative remedy is available. Mr.R.Sundaram had earlier filed a petition in I.A.No.65 of 2017 in O.S.NO.125 of 2016 under Order VII Rule 11 of C.P.C., before the Trial Court and the said petition was dismissed by the Court on 27.07.2017. The said Mr.R.Sundaram had not challenged the order. But after the order of the



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Trial Court dismissing the petition for rejection of the plaint, much water has flowed under the bridge. The interim attachment was made absolute in the year 2020. The sale has been made pursuant to the orders of this Court. Hence, the order of the Trial Court dismissing the petition under Order VII Rule 11 C.P.C., which has not been challenged would not be a bar for the exercise of Jurisdiction under Article 227 of the Constitution of India. In this regard, it would be useful to refer to the observations of this Court in ***T.P.Kathiresan and others Vs. R.Ramdass*** reported in **2020 (5) MLJ 748."**

"15.The law relating to availability of alternative remedy as a bar invoke constitution remedy is too well settled. The availability of the alternative remedy is not an absolute bar to invoke constitutional remedy. It is only as a matter of judicial discipline that the High Courts refrain from invoking constitutional power when effective alternative remedy is available under another law including Civil Procedure Code. At the same time, the respondent cannot be allowed to take advantage of the self imposed restrictions practiced by the High Court while exercising constitutional



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power of supervisory jurisdiction under article 227 of the Constitution of India in order to defeat just claims and to sustain a wholly obnoxious abuse of process of law."

"21.I do not think that I will be justified in refusing to exercise power under Article 227 and drive the petitioner to proceed under Order 7 Rule 11 of the Civil Procedure Code seeking rejection of the plaint. As already pointed out, the very power of supervisory Jurisdiction under Article 227 of is meant to curb such activities and refusal of exercise of such power in cases like this would only dilute the trust that the people have in Courts and legal system, Hence, C.R.P.(MD) No. 2368 of 2010 deserves to be allowed and the same is accordingly, allowed and the suit in O.S. No. 142 of 2010 will stand rejected."

Since the Suit in O.S.No.125 of 2016, is only in respect of Item “A” of the property, which is no longer available for partition, no useful purpose would be served in keeping the proceedings in O.S.No.125 of 2016 pending. Therefore, this Court is of the view that this is a fit case for



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exercise of this Court's power under Article 227 of the Constitution of India for striking off the plaint. Hence, **C.R.P.No.1807 of 2023** deserves to be allowed.

14. The next question is as to how the money deposited by the auction purchaser/M/s.Best Real Estates has to be distributed. M/s.Best Real Estates, had prayed for return of the sale consideration paid by them to Mr.R.Sundaram, in the year 2006, along with interest. As stated earlier, this Transaction was found to be not genuine. However, this Court by the order dated 28.10.2022, had on the request of M/s.Best Real Estates, observed that the Competent Authority shall pay a sum of Rs.1.35 Crores to M/s.Best Real Estates, which was the sale consideration paid by them in 2006. Firstly, there is no reference to interest payment in the said order. Secondly, this Court had suggested a refund of the sale consideration on humanitarian grounds through M/s.Best Real Estates, would not be entitled to refund since the transaction was not genuine. Hence, this Court is of the view that M/s.Best Real Estates would not be entitled to interest for the said sum of Rs.1.35 Crores. However, M/s. Best Real Estates, would be entitled to a return of



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Rs.1.35 Crores out of Rs.24.10 Crores deposited by them before the
Competent Authority.

15. In view of the above:

(a)The Competent Authority shall disburse the money due to the
depositors within eight weeks from today.

(b) The Competent Authority shall pay a sum of Rs.1.35 Crores to
the M/s. Best Real Estates.

(c) As per the order dated 28.10.2022, this Court had directed the
Competent authority namely District Revenue Officer, Coimbatore, to
issue sale certificate to the successful bidders (M/s.Best Real Estates) and
further vide order 18.11.2022 exempted the successful bidder from paying
stamp duty. Accordingly, the Competent Authority is directed to issue sale
certificate to M/s.Best Real Estates and they are also exempted from
paying stamp duty.

(d)The balance sum shall be retained by the competent authority
until further orders by this Court in **C.M.A.No.424 of 2022**.



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16. In the result,

(a) **C.M.A.Nos.1606 and 454 of 2013** are dismissed as infructuous.

(b) In view of the sale made by the Court, **W.P.No.5512 of 2012** is dismissed as infructuous.

(c) **C.M.A.No.1334 of 2013, C.M.A.No.1385 of 2021, C.M.A.No.424 of 2022**, are disposed of in terms of the above order.

(d) **C.R.P.No.1807 of 2023** is allowed. No Costs. Consequently the connected Civil Miscellaneous Petitions and Writ Miscellaneous Petition are closed.

(e) The Registry is directed to list **C.M.A.No.424 of 2022** on 27.11.2023 for "reporting compliance" of the above directions and for further orders regarding the disbursal of the money left after satisfying the debtors and the payment of Rs.1.35 Crores to M/s.Best Real Estates.

22.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J.

dk

**C.M.A.No.424 of 2022, C.M.A.No.1385 of 2021, C.M.A.Nos.1606,
1334 and 454 of 2013, W.P. No.5512 of 2022 and
C.R.P.No.1807 of 2023 and
M.P.No.1 of 2013, C.M.P.No.7126 of 2021, C.M.P.Nos.2946, 18054 and
22633 of 2022 and C.M.P.No.11656 of 2023 and
W.M.P.No.5594 of 2022**

Dated: 22.09.2023
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