



C.M.P.No.16894 of 2023
IN
O.S.A.SR.No.81976 of 2023

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

(Order of the Court was made by R.Mahadevan, J.)

This petition has been filed by the petitioner/appellant to grant leave to file an appeal against the order dated 10.03.2015 passed by the learned Judge, in A.No.96 of 2009 in I.P.No.68 of 2006.

2. The learned Senior Counsel appearing for the petitioner submitted that the petitioner's son had purchased the subject property from the 2nd respondent through his power agent/3rd respondent and put up construction by spending Rs.60,00,000/- and was in possession of the said property. The officials of the 1st respondent visited the subject property and issued a notice dated 05.12.2022, calling for enquiry, from which, the petitioner came to know that the 2nd respondent was adjudicated as an insolvent by this Court *vide* order dated 06.06.2006 in I.P.No.68 of 2006. Without the knowledge of the said proceedings, the petitioner's son had purchased the subject property on 06.06.2006, *i.e.*, on the date of order of adjudication. While so, the petitioner's son died on 17.07.2022. Since the petitioner is the sole legal heir of her deceased son and totally dependent on the income derived from the subject property, she is constrained to pursue the proceedings. Thus, the learned counsel sought leave of this court to file the appeal as against the order passed by the learned Judge in the application in insolvency proceedings.



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3. This Court perused the report dated 08.08.2023, filed by the learned Official Assignee, wherein, it is *inter alia* stated that the petitioner has filed this petition after a delay of more than 8 years, only with an intention to defeat the claims of the creditors, who have been waiting for nearly 18 years after the adjudication of the insolvency proceedings; and there are 11 unsecured creditors in this estate to be settled, which have been admitted to the tune of Rs.37,30,700/-.

4. Considering the facts and circumstances of the case and also having regard to the fact that though the order was passed declaring the sale in favour of Hari Baskaravarman as null and void in the year 2015, the official assignee has not taken immediate action for bringing the subject property for auction sale, this Court is inclined to grant leave to the petitioner to file the above appeal. Accordingly, this petition is ordered as prayed for.

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[R.M.D., J.] [M.S.Q., J.]
05.09.2023

*Note : Registry is directed to number
the appeal, if it is otherwise in order*

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