



C.R.P.No.1123 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.1123 of 2025

and

C.M.P.No.6611 of 2025

B.Anandan

... Petitioner

Vs.

1.S.Ravindrakumar

2.V.Anandan

... Respondents

Prayer : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order dated 09.12.2024 passed in E.A.No.5 of 2024 in E.A.No.2 of 2024 in E.P.No.1750 of 2021 in O.S.No.132 of 2018 on the file of the XXVIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.V.K.Sathiamurthy

For R1 : Mr.C.K.M.Appaji

For R2 : Mr.Avinash Wathwani
for Mr.M.Manimaran



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ORDER

Challenging the order passed by the learned XXVIII Assistant Judge, City Civil Court, Chennai, in E.A.No.5 of 2024 in E.A.No.2 of 2024 in E.P.No.1750 of 2021 in O.S.No.132 of 2018, dated 09.12.2024, allowing the application to permit the judgment debtor to mark certain documents in the claim application filed by him in the execution proceedings challenging the sale through public auction, the present revision has been filed by the decree holder.

2.The suit in O.S.No.132 of 2018 was filed by the revision petitioner against the 1st respondent for recovery of money. The said suit was decreed by the trial Court on 13.11.2019. Thereafter, the petitioner/decreed holder filed the Execution Petition in E.P.No.5 of 2024 for attachment and sale of the property for realisation of decree amount. The Execution Court has ordered proclamation of sale on 07.03.2023 and public auction was conducted on 21.02.2024 and the 2nd respondent was the auction purchaser of the property. Sale Certificate was also issued on 26.06.2024. Thereafter, the 1st respondent/judgment debtor has filed a claim petition in E.A.No.2 of



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2024 to set aside the sale proclamation, auction and also the sale certificate dated 26.06.2024. In the claim application, the 1st respondent/judgment debtor has taken out three applications viz., E.A.Nos.5, 6 and 7 of 2024 to permit the judgment debtor to adduce evidence as P.W.1 and also to examine the approved Valuer as P.W.2; to mark Exs.A1 to A12 in the claim application; and to mark the statement of accounts as Ex.A13 in the claim application.

3.The petitioner/decree holder opposed the said applications. However, the Execution Court, by a common order dated 09.12.2024, has partly allowed E.A.No.5 of 2024 and permitted only the judgment debtor to adduce evidence as P.W.1 and has also allowed the other two applications in E.A.No.6 and 7 of 2024 to mark the documents.

4.Challenging the order in E.A.No.5 of 2024 allowing the judgment debtor to adduce evidence, the present revision has been filed.

5.Heard the learned counsel on either side and perused the entire materials available on record.



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6.The present revision has been filed by the decree holder. It is admitted by both sides that the entire sale consideration has been deposited in the Execution Court. It is also informed that the amount has been deposited in an interest bearing deposit by the Execution Court. In such view of the matter, this Court is of the view that the only relief the decree holder can seek is to withdraw the amount deposited to the extent of decretal amount and he has no right to contest the claim application. It is only between the auction purchaser and the judgment debtor with regard to the right over the property. The judgment debtor has filed the claim petition raising certain irregularities in the sale. In support of his claim, he seeks to adduce evidence and mark certain documents. Needless to say, the documents will be marked subject to objections raised by the other side. This Court is of the view that no prejudice would be caused in adducing evidence or marking documents. Ultimately, the matter can be decided between the judgment debtor and the auction purchaser on merits. Therefore, I do not find any merit in this revision.



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7.Hence, this Civil Revision Petition is dismissed. It is open to the revision petitioner/decreed holder to file necessary application before the Execution Court for release of the decree amount along with interest, in his favour. If any such application for release of amount is made, the Execution Court shall disburse the decree amount to the revision petitioner/decreed holder along with interest. The Execution Court shall decide the rights of the parties, namely the auction purchaser and judgment debtor, in the claim petition on merits and in accordance with law. If the judgment debtor is willing to pay the decree amount, it is for him to draw a Demand Draft for the decree amount along with interest and handover the same to the petitioner/decreed within a period of two weeks from the date of this order. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2025

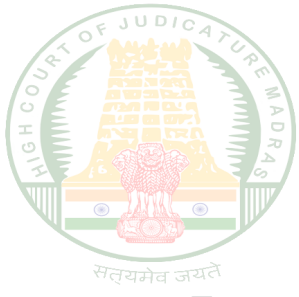
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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No



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To

- 1.The XXVIII Assistant Judge,
City Civil Court,
Chennai.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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