



CRP NPD.Nos.1603 & 3771 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 02.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP Nos.1603 & 3771 of 2024 &

CMP.Nos.8569 & 20585 of 2024

Thahira

. . . Petitioner in both CRPs

Versus

A.Ramesh

. . . Respondent in both CRPs

PRAYER IN CRP.No.1603 of 2024 : Petition filed under section 115 of Code of Civil Procedure to set aside the Order dated 04.03.2024 passed in E.P.No.1778 of 2023 in O.S.No.189 of 2021 on the file of the X Assistant Judge, City Civil Court at Chennai by allowing this Civil Revision Petition.

PRAYER IN CRP.No.3771 of 2024 : Petition filed under section 115 of Code of Civil Procedure to allow the Civil Revision Petition and set aside the fair and decreetal Order dated 02.08.2024 passed in I.A.No.4 of 2023 in



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O.S.No.189 of 2021 on the file of the IV Additional City Civil Court, Chennai
by allowing this Civil Revision Petition.

For petitioners : Mr.D.Gopal
for Mr.S.Ananth [in both CRPs]

For Respondents : Mr.R.Sundaramurthy [in both CRPs]

COMMON ORDER

Civil Revision Petition in CRP.No.1603 of 2025 has been filed challenging the Order of attachment of the properties of the petitioner by the Execution Court.

2. Civil Revision Petition in CRP.No.3771 of 2024 has been filed challenging the dismissal of the petition filed by the petitioner to condone the delay of 258 days in filing an application to set aside the exparte decree passed in the suit.

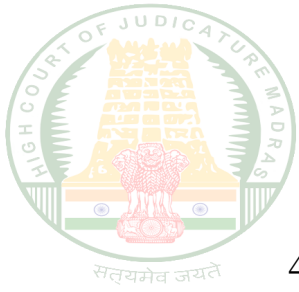
3. The suit in O.S.No.189 of 2021 has been filed by the respondent for recovery of a sum of Rs.20,33,647/-. The suit has been proceeded inter alia



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contending that the defendant had borrowed the amount and executed a debts bond. In the written statement the borrowal is denied. It is the contention of the defendant that the chit transaction is between the defendant and the wife of the plaintiff. As he could not pay the subscription for four months, the suit came to be filed. When the suit has been posted for cross examination of P.W.1, cross examination has not been done. Therefore, the defendant had been set exparte and exparte decree had been passed. It is the contention of the revision petitioner, on the date when the matter is posted for trial, he could not appear as he was suffering from heavy fever and he had also informed his advocate. Immediately, after receipt of summons in Execution Petition in E.P.No.1779 of 2023, he came to know that an exparte decree has already been passed in the suit. Hence, an application has been filed an application to set aside the exparte decree along with an application to condone the delay. The trial Court, taking note of the conduct of the parties and reasons assigned in the application, dismissed the application. Challenging the same, the present Civil Revision Petition in CRP.No.3771 of 2024 has been filed.



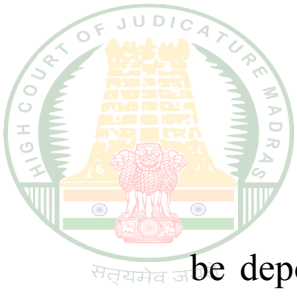
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4. In the meanwhile, the Execution Petition in E.P.No.1778 of 2023 has been filed and an order of attachment has been Ordered. Challenging the same, the Civil Revision Petition in CRP.No.1603 of 2024 has been filed.

5. It is brought to the notice of this Court that the property had already been brought for sale and the property has been sold in auction for a sum of Rs.55,20,000/- and the auction purchaser is also before this Court.

6. This Court on the specific request of the revision petitioner that they are ready to deposit the entire auction amount along with the expenses had adjourned the matter. The auction purchaser is present before this Court and submitted that they had also spent an extra amount of Rs.40,000/- and if that amount is also paid, they have no issues. The learned counsel appearing for the petitioner would submit that they will deposit the extra expenditure of Rs.5 lakhs towards the amount spent by the auction purchaser within a period of two weeks and within another two weeks, they will deposit entire amount before the Executing Court and that the entire Execution Petition amount will

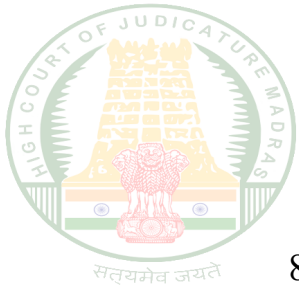


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be deposited within a period of four weeks from today. That apart, he will also take a demand draft in favour of the auction purchaser for the 5% expenditure incurred by him and additional charges and other expenses and hand over the demand draft to the auction purchaser.

7. Considering the submissions of the learned counsel appearing for the petitioner and since the suit has been proceeded ex parte and the petitioner has volunteered to deposit the above amounts, this Court is inclined to grant one more opportunity to the revision petitioner to contest the suit on merits subject to the deposit of Rs.5 lakhs towards the amount spent by the auction purchaser within a period of two weeks and within another two weeks, they will deposit entire decree amount before the Executing Court and that the entire Execution Petition amount shall be deposited within a period of four weeks from today. Failure to deposit the amount as agreed before this Court, these Civil Revision Petitions shall stand dismissed and the Execution Court shall confirm the sale and issue sale certificate.



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8. With the above directions, these Civil Revision Petitions are disposed of. Connected Civil Miscellaneous Petitions are closed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

The XVIII Additional Judge,
City Civil Court, Chennai.



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N. SATHISH KUMAR, J.

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