



C.M.A.No.1829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.10.2025**

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.1829 of 2024

and

C.M.P.No.14428 of 2024

1. Malarkodi
2. Dhandapani
3. Priyavathi
4. Prabu
5. Sindhu
6. Elangovan
7. Sampath
8. Duraisamy @ Ravichandran

.. Appellants / Petitioners

Vs.

1. Vajjiravel Chetty
2. Silambarasan
3. Ashwini
4. Rajmohan
5. Gopal
6. Manikandan
7. The Official Receiver,
District Court Premises
Krishnagiri- 635002.

..Respondents/Respondents



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Prayer: This Civil Miscellaneous Appeal is filed under Order XLIII(1)(r) of Civil Procedure Code, 1908, to set aside the fair and decreetal order passed in I.A.No.5 of 2023 in O.S.No.262 of 2023 on the file of Additional District and Sessions Judge, Dharmapuri, order dated 03.04.2024.

For Appellants : Ms.T.Hemalatha
For R1 to R3, R5 & R6 : No Appearance
For R4 : Mr.R.Suryanarayanan
For R7 : Mr.S.Mukunth
Senior Counsel
for Mr.M.Ashwin Kumar

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the plaintiffs against the fair and decreetal order passed in I.A.No.5 of 2023 in O.S.No.262 of 2023 dated 03.04.2024 on the file of the Additional District and Sessions Court, Dharmapuri.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The case of the petitioners / plaintiffs is stated in brief:-

The suit properties originally belong to Munusamy Chetty. He executed a registered Will dated 04.07.1966 in respect of 3.50 acres of land in favour of



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his grandsons Vimalan, Elangovan, Sampath and Ravichandran. Munusamy Chetty died on 07.07.1967. The above said Will came into effect and the beneficiaries have been in possession and enjoyment of the suit property. Vimalan died on 30.05.2018 leaving behind his wife, 1st petitioner and his children petitioners No.2 to 5. Revenue records were mutated in the name of the petitioners.

3.1. The petitioners came to know that the above said four person's father, Vadivelu Chettiar had filed I.P.No.27 of 1962 before the Sub Court, Salem and it was transferred to Sub Court, Krishnagiri and numbered as I.P.No.2 of 1971. Out of 4.61 cents in S.No.310 of Adilam village acre 1.20 cents was purchased through auction by the 1st defendant, Vajjiravel Chetty in Document No.183/1979. The said document was cancelled by the Order dated 07.12.1981. Vadivelu Chettiar paid the entire amount in I.P.No.2 of 1971 and the I.P. was disposed of. Vimalan and petitioners No.6 to 8, sons of Vadivelu Chettiar have no right over the property in S.No.310. Vadivelu Chettiar died on 21.06.2011.

4. 7th respondent / Official Receiver without auctioning the properties has declared that auction was conducted and defendants No.4 to 6 were declared as successful bidders and sale deed dated 21.04.2023 was created



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in favour of the above said bidders. The value of the suit property is more than Rs.50 lakhs per acre. Sale deeds in the name of the defendants No.4, 5 and 6 are not valid. Defendants No.1 to 6 are attempting to grab the property belonging to the petitioners. The 1st respondent has created settlement deed bearing Registration No. 1304/2017 and the petitioners have filed a suit in O.S.No.176 of 2017. The respondents are attempting to create encumbrance in the suit property. Hence, the petition is filed under Order XXXIX Rule 1 and 2 and Section 151 of the Code of Civil Procedure, 1908, for grant of interim injunction not to alienate or create any encumbrance over the suit property till the disposal of the suit.

5. On behalf of the respondents No.4 and 6, it was contended that they are the auction purchasers who purchased the properties and sale deeds were executed in their name. The petitioners were never in possession and enjoyment of the suit property and sought for dismissal of the petition.

6. The 7th respondent / 7th defendant (Official Receiver, Krishnagiri) would state that Vadivelu Chettiar (father of petitioners/plaintiffs No.6 to 8 and grandfather of petitioners No.2 to 5/plaintiffs and father in law of the 1st petitioner/ plaintiff) was declared as an insolvent person as per the Order of the Sub Court, Salem on 16.12.1963. Based on the said Order, all the properties of the Vadivelu Chettiar got vested with the 7th respondent/ 7th



defendant. Thereafter, some of the properties were auctioned by the Official Receiver. The 1st respondent / 1st defendant and other persons purchased some portion of the landed properties. But at later point of time, since the purchase money was lesser than the market value, the said sales conducted by the Official Receiver were set aside and the Court directed the Official Receiver to resale the properties for proper value. The petitioners are relying upon the Will executed by the father of Vadivelu Chettiar, but the survey number details have been wrongly mentioned in the Will.

7. Vimalan (died), Elangovan, Sampath and Ravichandran (petitioners No.6 to 8 / plaintiffs No.6 to 8) are the sons of Vadivelu Chettiar. They had filed a suit for declaration of title and for permanent injunction against Vadivelu Chettiar and the Official Receiver, by relying upon the Will in Document No.13/1966 before the District Munsif Court, Dharmapuri in O.S.No.577 of 1967. The said suit was dismissed for default on 08.09.1970 with costs payable to the Official Receiver (Rs.36.75/-). Age of the 8th petitioner / 8th plaintiff is mentioned as 53, which means he was born in the year 1970. Will was registered in year 1966. Vadivelu was declared as insolvent on 16.12.1963. But the Will was registered on 04.07.1966.

8. The legal heirs of Vadivelu Chettiar, namely, the petitioners/ plaintiffs laid the suit and the defendants No.1 to 6 have purchased the property



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through auction conducted by the Official Receiver. The defendants No.1 to 3 are the family members of the defendants No.4 to 6. The plaintiffs have filed the suit for declaration of title and for permanent injunction not to create any encumbrance over the suit property and for declaration that the sale effected in the name of defendants No.4 to 6 as null and void. The suit property is a land to an extent of 3.50 Acres situate at Adilam Revenue Village of Karimangalam Taluk, Dharmapuri District in Survey Nos.310/1, 310/2 and 310/3.

9. On a careful perusal of the records, it explicates that Vadivelu Chettiar was declared as insolvent on 16.12.1963. The effect is that, by the said Order, all the properties of the Vadivelu Chettiar got vested with the 7th respondent/ 7th defendant- Official Receiver, Salem. But the Will was said to have been registered on 04.07.1966. When once the properties are vested with the Official Receiver, then Vadivelu Chettiar lost the legal rights to deal with his own properties.

10. The petitioners would contend that they came to know about the Order passed in I.P.No.27 of 1962 in March 2023. Then the matter was transferred to Sub Court, Krishnagiri. The respondents No.4 to 6 / defendants No.4 to 6 purchased some portion of the suit properties through auction conducted by the Official Receiver, however, patta has been granted in the



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name of Vadivelu Chettiar. In the aforesaid circumstances, the properties of Vadivelu Chettiar is vested with the Official Receiver and grant of patta in favour of Vadivelu Chettiar is not valid in the eye of law. But Vimalan S/o. Vadivelu Chettiar had filed an application in I.P.No.2 of 1971 to reduce the upset price of the auctioned land. The fact that Vimalan, died on 30.05.2018 is not in dispute. It is worthy to note that as per Section 68 of the Provincial Insolvency Act, 1920, *"If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just:*

Provided that no application under this section shall be entertained after the expiration of twenty-one days from the date of the act or decision complained of."

11. Therefore, the above said Section enumerates that the party in person who is aggrieved of the decision of the Official Receiver may file his application before the Insolvency Court within a stipulated time. The Insolvency Court has ordered the 7th respondent / 7th defendant to sell the property through auction and to disburse the sale amount among the creditors.



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12. Moving further, Ex.P6 is the Certified copy of the Order passed in I.P.No.26 of 1962. The legal heirs of Vadivelu Chettiar did not choose to implead themselves in the insolvency proceedings and no appeal was appeared to have been filed by the legal heirs of the Vadivelu Chettiar against the Order of the Insolvency Court. Therefore, the Order of the Insolvency Court attained finality. Son of Vadivelu chettiar, Vimalan having participated in the IP proceedings by filing applications in I.A.No.2 of 1988 in I.P.No.2 of 1971 and further the plaintiffs having filed suit in O.S.No.176 of 2017, it should not lie in the mouth of the petitioners that they had no knowledge about the insolvency proceedings and the Orders passed by the Insolvency Court.

13. When once the properties are vested with the Official Receiver, the petitioners do not have any right over the said properties. For the said reason application under Order XXXIX Rule 1 and 2 and Section 151 of CPC, for grant of interim injunction not to alienate or create any encumbrance over the suit property is not maintainable in law. As soon as Vadivelu Chettiar was declared as insolvent by the Insolvency Court, on 16.12.1963, the legal effect is that all the properties of the Vadivelu Chettiar got vested with the 7th respondent / 7th defendant– Official Receiver. The application filed by the petitioners / plaintiffs does not have any merits and the trial Court has rightly dismissed the application.



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14. Above being the position, this Civil Miscellaneous Appeal stands dismissed. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition stands closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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1. The Additional District and Sessions Court, Dharmapuri
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VR Section,
High Court, Madras.



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