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CMP No. 12846 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 08-10-2025**

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**CMP No. 12846 of 2025  
in  
OSA.Sr.No.83142 of 2025**

1. Najmudeen Nadheem Ahamed

Appellant(s)

Vs

1. Gopaldas Dwarakadas Family Trust Estate  
Rep. by its Managing Trustee,  
R. Chatrabujdas, Door No.329, New No.374,  
Mint Street, Chennai - 003.

2.Abul Abbas  
S/o. Mohammed Ismail,  
No.7, Mudaliyar Street,  
Thuvarankurichi, Trichy District.

Respondent(s)

**PRAYER**

To grant leave to file the above appeal against the judgment and decree dated 21.01.2025 in Application No.5189 of 2023 in CS No.721 of 1923.



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For Appellant(s): Mr.P.L.Narayanan  
Senior Counsel

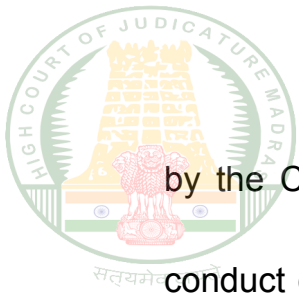
For Respondent(s): Mr.R.Thiagarajan for R1  
Mr.M.S.Krishnan  
Senior Counsel  
for Mr.T.Dinesh for R2

**ORDER**

**(Order of the Court was made by S.M.Subramaniam J.)**

The appellant claims that he is one of the bidders in the auction sale of the subject property at Thiruvankurichy Village, Ponnampatti Town Panchayat, Marungapuri Taluk, Tiruchirapalli District, which was advertised in the auction sale notice calling for sealed bids to be submitted to the Registrar General, High Court.

2. The learned Senior Counsel appearing on behalf of the appellant would contend that the appellant submitted his bid to the Registrar General, High Court. However, he has not received any intimation regarding the public auction conducted by the Court. The learned Single Judge, while directing for publication, indicated that the hearing date is to be mentioned in the paper publication. However, the publication does not contain the date of hearing. Therefore, the appellant could not able to participate in the auction conducted



by the Court. Since he was not aware of the auction/hearing date, nor the conduct of auction, there is a delay in filing the appeal, and more so, his bid submitted before the Registrar General was also not taken into consideration.

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3. The learned Senior Counsel appearing on behalf of the 2<sup>nd</sup> respondent would oppose by stating that the public auction sale was conducted by the Court in the “Court room” and the bids submitted before the Registrar General were called for, and the auction was conducted in a transparent manner. Three participants were present before the Court. They are 1. Mr.Abul Abbas, 2. Mr.Mohammed Ismail and 3.Mr.K.Rajamanickam. It is brought to the notice of this Court that Mr.Mohammd Ismail is the father of the Mr.Abul Abbas. The cause title also reveals the same. Therefore, only two persons actively participated in the auction conducted by the Court. Further, it is concluded that the 2<sup>nd</sup> respondent Mr.Abul Abbas is the highest bidder, and accordingly, the sale was confirmed. The learned Single Judge passed orders on 21.01.2025 recording the auction conducted, and terms to settle the sale amount also has been fixed. Accordingly, a sum of Rs.12.55 Crores has been deposited by the 2<sup>nd</sup> respondent in the Indian Bank, High Court Branch. That



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apart, there is a long delay in filing the present appeal. He would further submit that the appellant is not an aggrieved person and he remained silent for more than three months. Thus, the present petition is vexatious. The appellant is intending to frustrate the entire auction sale proceedings, and therefore, the conduct of the appellant is to be taken into consideration for the purpose of rejecting the present petition.

4. The learned Advocate appearing on behalf of the 1<sup>st</sup> respondent Trust would contend that the public auction through Court was conducted in a transparent manner. The 2<sup>nd</sup> respondent is the highest bidder and deposited the amount. Pursuant to the order of confirmation of sale, a sale deed was also executed. Therefore, the Trust may be permitted to withdraw the amount by dismissing the present petition seeking the leave of this Court.

5. This Court has considered the rival submissions made between the parties to the lis on hand.

6. The fact remains that the 1<sup>st</sup> respondent Trust is the absolute owner



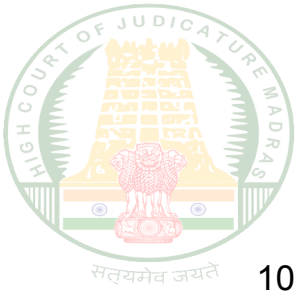
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of the property. A decision was taken by the Trust to sell the property. An application was filed seeking permission of the Court as per the scheme decree in CS.No.721 of 1923 dated 17.02.1925. Permission was granted by the Court, and the said permission is not in dispute between the parties.

7. The only dispute arose is regarding conduct of public auction through Court in the “Court room”. Whether it was conducted in consonance with the established principles is to be examined.

8. Under these circumstances, the appellant cannot be construed as a third party, since he has submitted his bid before the Registrar General, High Court and represented before the learned Single Judge when the application was pending. That being so, the issues raised between the parties ought to be examined on merits. Thus, this Court is inclined to grant leave to file an appeal against the judgment and decree dated 21.01.2025 in Application No.5189 of 2023 in CS No.721 of 1923.

9. Accordingly, the Civil Miscellaneous Petition is ordered. No costs.



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10. Registry is directed to number the condone delay petition, if the papers are in order, and list the matter on 10.10.2025.

**(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)**

**08-10-2025**

gd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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