



CMP No. 15769 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-03-2025

WEB COPY

CORAM

**THE HONOURABLE DR JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

CMP No. 15769 of 2024

AND

OSA SR NO. 81976 OF 2023,IP NO. 68 OF 2006,APPLN NO. 96 OF 2009

1. Haribaskaravarman(died)
W/o. Rangasamy, No.9, AP Chatram,
Uthiramerur, AP Chatram,
Kancheepuram 603 406.

Appellant(s)

Vs

1. Official Assignee
High Court of Madras, Chennai.

2.B. Ravikumar
No.24, Vinayaka Masitry St, Chennai
79.

3.S.K. Rahamatullah
S/o. S.K. Mastan Sahib, No.6, 19 th St,
Ashtalakshmi Nagar, Alapakkam,
Chennai 116.

Respondent(s)

OSA SR No. 81976 of 2023



CMP No. 15769 of 2024



1. Haribaskaravarman(died)

WEB COPY

Applicant(s)

Vs

1. Official Assignee

Respondent(s)

IP No. 68 of 2006

1. B. Ravi Kumar

Applicant(s)

Vs

1.

Respondent(s)

APPLN No. 96 of 2009

1. Official Assignee

Applicant(s)

Vs

1. B. Ravikumar

No.24, Vinayaka Maistry Street,
Chennai - 79

2.S.K. Rahamatulla

No.6, 19th Street, Ashtalakshmi
Nagar, Alappakkam, Chennai - 116

3.HARIBASKARAVARMAN



CMP No. 15769 of 2024



4/5 Arcot Road, Thandavamurthy
Nagar, Valasaravakkam, Chennai - 87.

WEB COPY

Respondent(s)

CMP No. 15769 of 2024

PRAYER

To condone the delay of 3023 in filing the above appeal against the order dated 10.03.2015 made in Appl No. 96 of 2009 in IP 68/2006

OSA SR No. 81976 of 2023

PRAYER

IP No. 68 of 2006

PRAYER

APPLN No. 96 of 2009

PRAYER

To Order Declaring That The Sale Of The Property Morefully Described In The Schedule Hereunder Effected By The 1st Respodnent B. Ravikumar Through His Power Agent 2nd Respondent S.K. Rahamathullah To 3rd Respondent Haribaskaravarman Vide Document No. 3026/2006

CMP No. 15769 of 2024

For Appellant(s): Mr.S.Mukunth, Senior Counsel
For M/s.Sarvabhauman
Associates

For Respondent(s): Mrs.C.B.Meena, Official
Assignee (fac)

**ORDER****(Order of the Court was made by Anita Sumanth J.)**

WEB COPY

One B.Ravikumar (Insolvent) was declared as insolvent in I.P.No. 68 of 2006 on 06.06.2006. The application seeking declaration of insolvency was made by him on 12.05.2006.

2. However, the insolvent had alienated the property at Plot No. 19, Mangala Nagar, (Now Astalakshmi Nagar,), 26th Street, Alapakkam, Porur, Chennai – 600 116, ad-measuring 700 sq ft comprised in S.No.338 (Part) and an extent of 3200 sq ft comprised in S.No. 339/1A (Part), in all ad-measuring 3200 sq ft at No.73, Maduravoyal Village, Ambattur Taluk, Thiruvallore District (property / property in question), to the present appellant on 06.06.2006, on the very the date, where he had been declared insolvent.

3. The Official Assignee (OA) had thereafter has filed an application seeking to set aside the aforesaid sale in A.No.96 of 2009. The prayers in the application are as follows:-

(i) to declare that the sale of the property morefully described in the schedule hereunder effected by the 1st respondent B.Ravikumar through his power agent second respondent S.K.Rahamathullah to the third respondent



WEB COPY

CMP No. 15769 of 2024



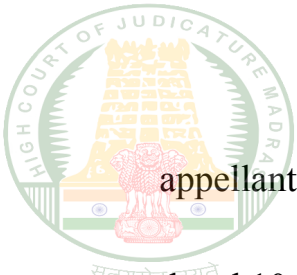
Haribaskaravarman vide Document no. 3026/2006 of Sub Registrar's Office, Virugambakkam, shall be void against the Official Assignee by setting aside the sale.

(ii) to grant a warrant of seizure in favour of the Official Assignee to seize the property from the custody or possession of the third respondent herein or any other person and with a view to such seizure to break open the doors of the said building of the schedule mentioned property with a further direction to the area police officer to render necessary assistance for such seizure in case of necessity.

(iii) to direct the respondents to deliver all the title deeds such as Document No. 3026/2006 and other documents and deeds from their possession relating to the property of the official assignee”

4. Notice was issued in the application to the present appellant and the learned Judge records that there was no response and none entered appearance on their behalf. Hence the application came to be allowed after considering the averments made in the affidavit filed in support of the application as well as the evidence of PW1 and PW2, who had deposed on 10.03.2015 in the course of the hearing.

5. One of the tentative submissions advanced by Mr.S.Mukunth, learned Senior Counsel, for M/s Sarvabhauman Associates, appearing for the



appellant, is that there is no reasoning in support of the conclusion in order dated 10.03.2015.

WEB COPY

6. We have perused the order carefully and find that the learned Judge has engaged in a detailed narration of the relevant events, taking into account the submissions made by the OA. The Assistant Section Officer had been examined as PW1 and three documents were marked through him. A Government authorized Engineer, one Anbarasan, had been examined as PW2. Though R2 and R3 have not entered appearance, R1, the insolvent had entered appearance through counsel but had chosen not to cross examine the witnesses.

7. The OA has canvassed a specific argument to the effect that the sale effected on 06.06.2006 was a collusive sale entered into solely with the intention of defeating and delaying the claim of the creditors. This position has been recorded by the learned Judge towards the end of para 4 of order dated 10.03.2015. In such circumstances, we find that the conclusion arrived at in order dated 10.03.2015, is perfectly in order.

8. It is moreover, to be noted, that the appellant does not contest any of the facts contained therein. Thereafter, the purchaser/ S.Haribaskaravarman



passed away on 17.07.2022 and the present OSA has been filed by his mother in 2023, albeit with a delay of 3023 days.

WEB COPY

9. We are hence required to consider whether there is any justification for the aforesaid delay to have transpired and examine the request for condonation of the same.

10. At paragraph 8 of the petition filed seeking condonation of delay, the petitioner, the mother of S.Haribaskaravarman has averred at para 8 that her son was a bonafide purchaser of the property in question and that he had not been served with any notice prior to the execution of the said sale deed. That may well be so.

11. However, S.Haribaskaravarman was well aware of the factum of declaration of insolvency on 06.06.2006, immediately thereafter, as the reports as well as the records of the proceedings before the OA establish categorically that Haribaskaravarman has been summoned for personal hearings before the OA and had appeared in response to the notices.

12. There is a record of proceedings of him having attended the office of the OA on 19.12.2006, duly signed by him. The appellant has been supplied



with a copy of the proceedings.

WEB COPY

13. In such circumstances, there is no justification for the instant appeal to have been filed belatedly that too with such significant delay of more than 3000 days. The purchaser, was well aware of the factum of declaration of insolvency of the vendor as early as in December, 2012 and ought to have been vigilant to protect his interests in that regard. It is a settled position that every day of delay ought to be explained by a person seeking condonation or at least a reasonable and plausible explanation offered overall. In the present case, we find no such justification for any delay at all, let alone a delay as significant as the present one, which we opine, is fatal to his case.

14. For the aforesaid reasons, this Miscellaneous Petition is dismissed.

No costs.

(ANITA SUMANTH J.)(C.KUMARAPPAN J.)

21.03.2025

Index:No

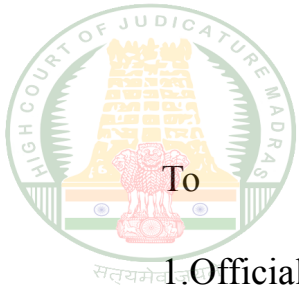
Speaking

Internet:Yes

Neutral Citation:Yes

ssm

CMP No. 15769 of 2024



CMP No. 15769 of 2024



To

1. Official Assignee

High Court of Madras, Chennai.

2. B. Ravikumar

No. 24, Vinayaka Masitry St, Chennai

79.

3. S.K. Rahamatullah

S/o. S.K. Mastan Sahib, No. 6, 19 th St,

Ashtalakshmi Nagar, Alapakkam,

Chennai 116.

OSA SR No. 81976 of 2023

To

1. Official Assignee

IP No. 68 of 2006

To

1.

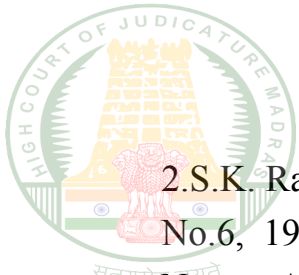
APPLN No. 96 of 2009

To

1. B. Ravikumar

No. 24, Vinayaka Maistry Street,

Chennai - 79



CMP No. 15769 of 2024



2.S.K. Rahamatulla

No.6, 19th Street, Ashtalakshmi
Nagar, Alappakkam, Chennai - 116

WEB COPY

3.HARIBASKARAVARMAN

4/5 Arcot Road, Thandavamurthy
Nagar, Valasaravakkam, Chennai - 87.



WEB COPY

CMP No. 15769 of 2024



**ANITA SUMANTH J.
AND
C.KUMARAPPAN J.**

ssm

**CMP No. 15769 of 2024
AND OSA SR NO. 81976
OF 2023,IP NO. 68 OF
2006,APPLN NO. 96 OF
2009**

21-03-2025