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CRP(NPD) No.2939 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.07.2025

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P (NPD) No.2939 and 2940 of 2025

and C.M.P No.16571 of 2025

A.S.Sai Subramanian

... Petitioner
in both petitions

..Vs.

G.Senroyan

... Respondent
in both petitions

Prayer in CRP No.2939 of 2025: This Civil Revision Petition is filed under Article 115 of Constitution of India, to set aside the fair and decreetal order dated 16.06.2025 in REA No.115 of 2015 in REA No.123 of 2009 in E.P No.41 of 2005 in C.S No.35 of 2004 on the file of the Subordinate Court, Sankari.

Prayer in CRP No.2940 of 2025: This Civil Revision Petition is filed under Article 115 of Constitution of India, to set aside the fair and decreetal order dated 16.06.2025 in REA No.123 of 2009 in E.P No.41 of 2005 in C.S No.35 of 2004 on the file of the Subordinate Court, Sankari.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondent : Ms.T.Yazhini

COMMON ORDER



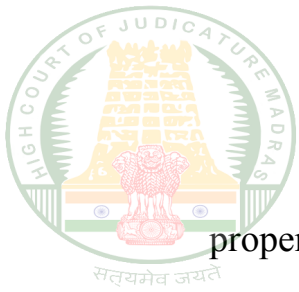
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Challenging the order passed by the trial Court rejecting the application filed under Section 47 of CPC in R.E.P No.41 of 2005, C.R.P No.2939 of 2025 has been filed by the judgment debtor. Similarly another revision in C.R.P No.2940 of 2025 has been filed, challenging the order of delivery dated 16.06.2025.

2. The following are the facts which are necessary to dispose the present revisions:

The suit in O.S No.35 of 2004 was originally filed by the respondent for enforcing the contract dated 22.10.2002 for sale of the property. However, the said suit was decreed only for alternative prayer of refund of advance amount paid with interest at 12% per annum. The judgment and decree was passed on 08.09.2004. Of course, it is an exparte decree. The defendant has not contested the matter which resulted in exparte decree being passed against him. Since the said decree and judgment had reached its finality and there was no challenge to realise the decree amount, Execution Petition in REP No.41 of 2005 was filed in the year 2005, wherein the subject property was attached and sold. The decree-holder himself with the permission of the Court had purchased the



property. Challenging the said sale, an application under Order 21 Rule 90 of CPC was already filed in R.E.A No.206 of 2007, alleging irregularity in a sale in favour of the decree-holder. The said application has been dismissed on 09.04.2009. Thereafter, it appears that the delivery order has been passed. In the meanwhile, the revision petitioner's son has also filed E.A No.95 of 2010 claiming half share in the property. Thereafter, this application has been filed under Section 47 of CPC, challenging the very auction sale on the ground of irregularity which has been rightly rejected by the trial Court.

3. I have perused the entire materials.

4. The very application was filed under Section 47 of CPC with regard to the very auction conducted by the Executing Court and the purchase made by the decree-holder. It is to be noted that the decree-holder of a decree in execution proceedings can bid or purchase the property with the permission of the Court. There is no bar under law for such purchase by the decree-holder. It is to be noted that the purchase was effected in the year 2009 itself. The same was challenged earlier occasion in R.E.A No.206 of 2007 alleging the irregularity in sale. That



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order has reached its finality between the parties. Therefore, once again on the same ground, an application under Section 47 of CPC cannot be maintainable. In fact, the finding had reached its finality in the earlier proceedings it would also operate resjuidicata. After another attempt made by his son claiming half share failed, yet another attempt has been made challenging the sale indirectly under Section 47 of CPC. In view of the above, it is a clear abuse of process of law. Accordingly, the order passed by the trial Court ordering delivery under Order 21 Rule 95 of CPC does not require any interference by this Court.

5. In the result, these two Civil Revision Petitions are dismissed and the trial Court shall see that the delivery is effected as expeditiously as possible and possession is handed over to the decree-holder. Consequently, connected miscellaneous petition is closed.

15.07.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To
The Subordinate Court, Sankari.

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N.SATHISH KUMAR,J

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