



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 22.10.2025

Order pronounced on : 31.10.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.583 of 2017

S.Somasundaram

... Petitioner

Vs.

S.Natarajan (Died)

1.P.R.Manonmani

2.Thara

3.Sudha

4.K.Subbaiya Gowder

Chikkanna Gowder (Died)

5.Renuga Raj

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 24.10.2013 made in E.A.No.44 of 2000 in E.P.No.21 of 1993 in O.S.No.124 of 1983 on the file of the II Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.R.Nandhakumar

For Respondents : Mr.S.Rajmahesh for R5
RR1 & 4 Died (steps due)
No appearance for RR2 and 3



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ORDER

The petitioner is a third party, who filed an application, seeking to set aside the sale deed dated 27.10.1999 in E.P.No.21 of 1993. The said application came to be dismissed by the executing Court and challenging the same, the present revision has been filed.

2.I have heard Mr.R.Nandhakumar, learned counsel appearing for the petitioner and Mr.S.Rajmahesh, learned counsel appearing for the 5th respondent.

3.Mr.R.Nandhakumar, learned counsel for the petitioner would submit that the respondents 2, 3 and 4 are the legal representatives of the 1st respondent, the deceased decree holder and that the 5th respondent is the judgment debtor and the respondents 6 and 7 are purchasers in the auction held by the Court. He would further submit that when the sale was posted to 27.10.1999, the revision petitioner filed an application under Order XXI Rule 69 of CPC, praying for adjournment of the sale, expressing readiness



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to make payment to the decree holder, without prejudice to his rights.

However, the said application was dismissed and the sale was held on the very same day and the EP was adjourned, for further proceedings to conclude the sale, to 03.01.2000. He would further state that the properties which are subject matter of the suit are ancestral properties and the petitioner, his brothers and the 5th respondent have right, title and interest over the same and even the execution petition was filed after a period of eight years, despite an ex-parte decree being granted in favour of the 1st respondent.

4.The learned counsel for the petitioner would further state that the petitioner also filed a claim petition under Section 47 of CPC, however, the said application was returned on 25.10.1999 and within two days, the property was brought for sale on 27.10.1999. The petitioner's application under Order XXI Rule 69 of CPC was filed on the very same day and the same was also returned and the auction sale in favour of the 7th respondent was confirmed. It is thereafter that the petitioner filed yet another application under Order XXI Rule 90 of CPC to set aside the sale.



According to the learned counsel for the petitioner, the filing of the said application was not even brought to the notice of the Court and an endorsement was made on 03.01.2000, as if there was no application filed to set aside the sale deed. He would therefore state that the respondents 2 to 4 have, in collusion with the auction purchaser and the Court officers, denied the valuable rights of the revision petitioner to safeguard his interest in the property. He would therefore pray for the revision being allowed.

5.Per contra, Mr.S.Rajmahesh, learned counsel appearing for the contesting respondents would submit that the revision petitioner has filed the application only at the instigation of his father, the 5th respondent, the judgment debtor in the EP. He would further state that as a third party, the petition under Section 47 of CPC itself was not maintainable and even in the application filed to set aside the sale deed, the petitioner has not even stated his interest in the suit property to enable him to seek cancellation of the sale deed. He would also invite my attention to the counter affidavit filed by the respondents 2 to 4 in E.A.No.44 of 2000, wherein they have denied even filing of the an application under Order XXI Rule 69 of CPC, seeking



adjournment of the sale and the allegations that the Court was misled and there was collusion between the respondents, the auction purchasers and the Court staff were all vexatious and unsubstantiated. He would further stated that the very application filed under Section 151 of CPC was not maintainable and the application was a sheer abuse of process of law and rightly, the executing Court has dismissed the same, warranting no interference in this revision.

6. Additionally, it is also brought to my notice by the learned counsel for the petitioner that insofar as the siblings of the revision petitioner, the matter has been settled as between the decree holder and the petitioner's siblings and a full satisfaction memo has also been filed and the EP itself has been terminated. The learned counsel for the revision petitioner would therefore state that the petitioner is also entitled to relief, since the decree holder has recorded full satisfaction and the EP has been terminated.

7. I have carefully considered the submissions advanced by the learned counsel on either side.



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8.The petitioner suffered a decree on 03.01.2000 and the auction purchasers were directed to pay 1/4th of the purchase price on or before 01.11.1999 and the same has been complied with and the remaining sale consideration has been paid within a period of 14 days and on 03.01.2000, the sale has been confirmed in favour of the auction purchasers. On 10.01.2000, the present EA.No.44 of 2000 has been filed, seeking to set aside the auction sale.

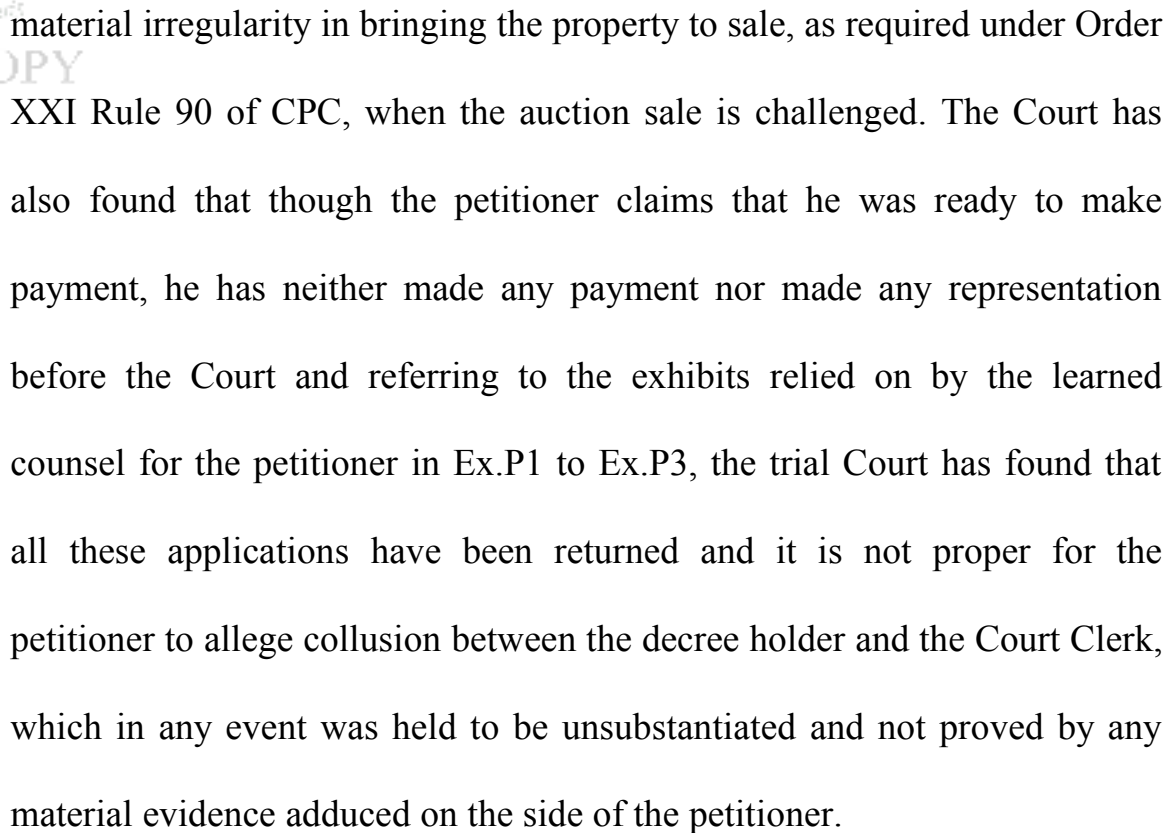
9.It is contended by the petitioner that the siblings of the petitioner have reached a settlement with the decree holder in the suit and the EP has also been terminated, recording full satisfaction of the decree and therefore, the sale of the property in favour of the auction purchaser has to necessarily go. The rights that have accrued to the auction purchaser even as early as on 03.01.2000, cannot be lightly disturbed by any settlement behind his back, that too, between some of the judgment debtors and the decree holder, whose interest has already been sufficiently satisfied by bringing the property of the judgment debtors for sale in public auction and the auction



purchaser has also deposited the entire sale consideration, even as early as in January 2000. Therefore, any settlement behind the back of the auction purchaser, that too, in the year 2016 is of no avail to the revision petitioner.

10. Be that as it may, the revision petitioner has not even stated as to how he is interested in the subject matter of the property. The entire affidavit merely proceeds on the basis that the petitioner, on coming to know of the auction to be held by the Court, sought for postponement of the same and since the application under Order XXI of Rule 69 of CPC was returned and the sale was confirmed on 27.10.1999 and therefore, the petitioner has filed an application under Order XXI Rule 90 of CPC to set aside the sale on 24.12.1999 and even the filing of the said application was not brought to the notice of the Court on 03.01.2000.

11. The executing Court has found that though the petitioner attacks the sale deed on the ground of fraud, he is a third party to the proceedings and he does not even state as to how the petitioner is interested in the property or is affected by the sale, to even enable the petitioner to allege



12. The executing Court has also found that not only has the petitioner not established his interest in the property, but also failed to prove any irregularity or fraud in bringing the property for sale. In effect, even though the petitioner had filed the application under Section 151 of CPC, the trial Court has examined the said application in the light of the provisions of Order XXI Rule 90 of CPC and has found that the petitioner has not made out any case, warranting setting aside of the sale conducted by the Court. I



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do not find any infirmity or perversity in the findings arrived at by the trial Court, warranting interference in this revision.

13.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.

31.10.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The II Additional Sub-Judge, Coimbatore.



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P.B. BALAJI,J.

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Pre-delivery order made in

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