



CRP NPD.Nos.157 & 158 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD Nos.157 & 158 of 2025 & CMP.No.1167 of 2025

N.Dhanalakshmi

. . . Petitioner in both CRPs.

Versus

1. Anbarasan
- K.Shanmugham [deceased]
2. Kumar
3. Sekar
4. Ravi
5. Sudhakar
6. Menaka
7. Kalavathi
8. Kanchana

. . . Respondents in both CRPs

PRAYER : Petitions filed under Article 227 of Constitution of India to set aside the Order dated 07.11.2024 made in E.A.Nos.1 and 2 of 2024 in E.P.No.107 of 2024 passed by the Sub Judge, Thiruvotriyur by allowing these Civil Revision Petitions.

For petitioner : Mr.R.Manickavel [in both CRPs]



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COMMON ORDER

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Challenge has been made against the Order of dismissal of the applications filed to implead the revision petitioner as party in the Execution Petition and to allow the revision petitioner to deposit entire decree debt claimed in the Execution Petition, these Civil Revision Petitions have been filed.

2. As no adverse Order has been passed against the decree holder, notice to the respondents is dispensed with and the Civil Revision Petition is take up for final disposal.

3. The first respondent as a decree holder has obtained a decree for recovery of a sum of Rs.2,10,000/- with subsequent interest and has levied execution petition in E.P.No.107 of 2024 for recovery of a sum of Rs.4,89,355/- and to release that decree amount sought for a direction to the judgment debtor to pay the amount and in failure to pay the amount, sought the property to be attached. At this stage, the revision petitioner has filed an



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application to implead himself in the execution proceedings on the ground that he has purchased the property on 11.10.2018 and he is a bonafide purchaser and he has also filed an application to permit him to deposit the decree amount. The respondent opposed the application on the ground that the third party has no right to be impleaded. However, the execution Court had dismissed the applications holding that when the property has already been attached and the property has been purchased on 11.10.2018, therefore, the revision petitioner cannot be impleaded.

4. At the outset, this Court is of the view that the Order dismissing applications cannot be sustained for the following reasons. Admittedly, the petitioner has purchased the property during the existence of the attachment. Hence, any sale is always subject to the claims enforceable under the attachment. Though the sale is void as against the claim enforceable under the attachment, when the purchaser himself seeks to discharge the entire amount, there is no impediment under the law to realise the amount. Further, the very concern of the decree holder is only to realise the amount. If the amount is



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realised, the question of bringing the property for auction will not arise. When the third party, who is purchaser of the property during the pendency of the litigation, is willing to deposit the entire amount before the Execution Court, the learned Execution Court ought to have allowed the applications filed for impleadment and permitted the revision petitioner to deposit the amount. Hence, the Orders impugned are liable to be set aside.

5. Accordingly, these Civil Revision Petitions are allowed and the Order of the Execution Court in E.A.Nos.1 and 2 of 2024 in E.P.No.107 of 2024 are set aside. The revision petitioner is impleaded in the Execution Petition and the revision petitioner is directed to deposit the entire amount to the credit of the Execution Petition within a period of four weeks from the date of receipt of a copy of this Order. On such deposit, the Execution Court shall terminate the Execution Petition and also raise the attachment and a copy of the Order shall also be communicated to the concerned Sub Registrar. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The Sub Judge,
Thiruvotriyur.



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N. SATHISH KUMAR, J.

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