



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

A No. 5299 of 2025

in

CS NO. 309 OF 2020

1. Mr.H.Khalid Ahmed

S/o.R.Abdul Hakkim, No.21 KTS Mani

Street, Mamallan Nagar, Kanchipuram.

Applicant(s)

Vs

1. M/S.METAL IMPEX and 6 others

Rep. by its Partner Kamalesh S.Jain,

Prince Apts. 59, Ormes Road, 7th Floor,

Kilpauk, Ch - 10.

2.Mr.Sneh M Jain

Flat No.3D, Jain Villa Apt. 3rd Floor,

No.9/10, Clemens Road, Vepery, Ch - 7.

3.Mrs.Badami Devi

Rainbow Siddhachal Apartment, Flat

No.10 C, Demellows Road, Pattalam,

O.N.1,N.N.1, Pulliyanthope, Perambur

Barracks Road, Ch - 12.

4.Mr.Vikram U Jain

Rainbow Siddhachal Apartment, Flat

No.10 C, Demellows Road, Pattalam,



O.N.1,N.N.1, Pulliyanthope, Perambur
Barracks Road, Ch - 12.

5.Mrs.Vanita Jain

No.9/10-2, Vepery Church Road,
Vepery, Ch - 7.

6.Mrs.Neetu Jain

No.19, SDM Lane, Manavarthipet,
Bangalore - 560053.

7.Mrs.Rita Jain

Flat 9 D, Prince Apt. No.59, Ormes
Road, Kilpauk, Ch - 10.

Respondent(s)

PRAYER: This application has been filed under Order XIV Rule 8 of Original Side Rules read with Order XXXVIII Rule 8 of Civil Procedure Code praying to adjudicate Applicants claim, his right and title to the property which is described under a separate schedule in respect of Acre 1.09 comprised in S.No.42/1B within the stated boundaries to the petition from and out of schedule II to the ABJ petition as also described in this petition and raise the attachment order dated 29/07/2021 in A.No.3172 of 2020 to free the applicants property from encumbrance.

For Applicant(s): M/s.N.Ramanujam



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For Respondent: Mr. R. Balaji

ORDER

This application has been filed by the applicant / third party to raise the attachment in respect of the property comprised in S. No.42/1B to an extent being 1 acre and 9 cents through an order dated 29.07.2021.

2. The learned counsel appearing for the applicant would submit that the applicant is the third party to the proceedings and he purchased the property through a Sale Deed dated 15.11.2021 in S.F. No.42/1 to an extent of 1 acre and 9 cents and he paid the sale price of Rs.9,15,000/- and he is the bonafide purchaser for the value. The vendor of the property represented that one Mahendran Bagri is the sole owner of the property, free of encumbrance and the patta also stands in his name. The applicant has also scrutinized the documents and as per the Encumbrance Certificate, there is no encumbrance revealed in the Encumbrance Certificate. Thereafter, the applicant came to know that the property was attached by this Court and at the time of purchase, no encumbrance of attachment was revealed through encumbrance certificate. The



applicant has been under the peaceful enjoyment and possession of the property.

Recently, on 12.08.2025, he came to know about the encumbrance of attachment before judgment passed by this Court. The third party properties cannot be attached and there is no privity of contract between the applicant and the Plaintiff. The applicant is not a party to the Suit. Therefore, the property of the applicant cannot be attached and hence the attachment passed by this Court on 29.07.2021 in A. No.3172 of 2020 has to be raised.

3. The learned counsel appearing for the respondents would submit that the 2nd respondent has filed the Suit as against the applicant herein in C.S. No.309 of 2020 for the relief of recovery of money and also he filed an application in A. No.3172 of 2020 for attachment before judgment. The applicant suppressed the material facts and filed the application with malafide intention. The applicant failed to include, all the parties to the Suit, in this application. In fact, one Bhupesh, Director of M/s. Indira Projects & Development Private Limited approached M/s. Metal Impex represented by its Partners Kamlesh Jain, Sneha M Jain and Ugamchand Jain with an investment



proposal to purchase property at Thirumudivakkam Village, Pallavaram Taluk.

M/s. Metal Impex represented by its partners purchased the property through a Sale Deed dated 05.12.2016 to the tune of Rs.2,49,00,000/-. They also executed a Development Power dated 17.02.2017 in favour of Mr. Bhupesh, Director of M/s. Indira Projects and Development Private Limited. Thereafter, the said Mr. Bhupesh was not in a position to develop the property. Therefore, the Plaintiff agreed to retain the property and cancelled the Power of Attorney dated 17.02.2017.

3.1. M/s. Metal Impex represented by its partners decided to sell the property and executed a Power Deed dated 07.07.2017 in favour of Mr. Bhupesh in respect of sale of their share and M/s. Metal Impex sold their share in the property vide a Sale Deed dated 07.07.2017. When he was in the Registration Office, he was informed that Raniammal had sent a letter stating that she has not executed any Power of Attorney in favour of S. Srinivasan and they had met Mr.N. Bhupesh and Srinivasan, they started to give evasive replies. Thereafter, a police complaint was lodged and the said Srinivasan



approached M/s. Metal Impex and agreed to repay the entire sale consideration of Rs.2,49,00,000/-. The said Srinivasan also executed a declaration and indemnity dated 12.07.2017 by agreeing to repay the entire amount of Rs.2,49,00,000/- with 21% interest p.a. He also executed two Mortgage Deeds dated 12.07.2017. The 1st defendant Srinivasan had filed a Suit in C.S. No.259 of 2024 against Bhupesh, Director of M/s. Indira Projects and Development Private Limited for recovery of money and the same is pending. The Plaintiff has filed a Suit in C.S. No.309 of 2020 and also filed an application in A. No.3172 of 2020 for attachment before judgment in respect of the property belongs to the said Srinivasan. This Court passed an order of attachment dated 29.07.2021 and the property was sold much later to the order of attachment. Therefore, the applicant suppressed the facts and circumstances only to defeat the rights of the 2nd respondent / Plaintiff and colluding with the defendants, created these documents and therefore, the application is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. On a perusal of records, it is observed that the applicant purchased the



property on 15.11.2021. Once this Court passed an order of attachment on 29.07.2021, which is much prior to the date of purchase by the applicant, the said sale in favour of the applicant is after the attachment. Therefore, it is clear that the applicant has purchased the property during the pendency of the Suit and the same cannot be decided at this stage. Since the property has been purchased during the pendency of the Suit, the sale in favour of the applicant is hit by principle of *lis pendens* and the applicant has to wait till the disposal of the Suit. Based on the result of the Suit, the applicant has to act. Therefore, this application has no merits and deserves to be dismissed.

6. Accordingly, this application is ***dismissed***.

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mjs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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