



WEB COPY

CRP No. 6122 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 6122 of 2025

and

CMP No. 30091 of 2025

S.Komathi
W/o.Shankar,
No.23, Arunachalam Street,
Purasaiwakam, Chennai 600 007.

Petitioner(s)

Vs

1. M.Balasubramanian
S/o.Mahadevan,
No.801, 26th Street,
Korattur, Chennai 600 080.

2.B.Saibaba Singh
S/o. B.Bagadhur Singh
No. 27/8, Orchard Bhavan, A Block,
Venkatraman Nagar, SRS Road,
Chennai 600 080.

Respondent(s)

PRAYER: Petition filed under Section 115 of the Code of Civil Procedure, to allow the above CRP and set aside the order and decretal order dated 20.08.2025 made in EA No.3 of 2024 in EP No.117 of 2017 on the file of the 1st Additional District and Sessions Judge (FTC), Tiruvallur, Tiruvallur District.

For Petitioner(s): Mr.V.Perumal

For Respondent(s): Mr.P.Kannan Kumar

**ORDER**

Heard Mr.V.Perumal, learned counsel for the petitioner and Mr.P.Kannan Kumar, learned counsel appearing for the caveator.

2. The learned counsel for the petitioner submits that the revision petitioner is a third party to the execution proceedings and has purchased the suit property as early as on 26.12.2012. Thereafter, the petitioner has filed an application under Order 21 Rule 58 C.P.C., objecting to the execution proceedings being taken against the property belonging to the revision petitioner. The said application, on enquiry, was dismissed by the trial Court. Against the same, the revision petitioner has filed an appeal in C.M.A.Sr.No.39500 of 2024 along with an application to condone the delay in C.M.P.No.8712 of 2024. In the meantime, the execution petition has been proceeded with. As there was no bidder, the respondent/decreed holder has filed an application under Order 21 Rule 72 of C.P.C, seeking permission to participate in the auction, in order to purchase the property.

3. The learned counsel for the respondents submits that the decree is prior to the sale in favour of the petitioner.

4. I find that merely because, the decree holder has been permitted to



participate in the auction as has been directed by the Executing Court, the rights of the revision petitioner will not be in any manner seriously prejudiced including the course open to the petitioner, much less complicated as to how she will not be forced to deal with 3rd party interest. The only opponent will be the decree holder, who is the purchaser. The decree holder also noticed the claim made by the revision petitioner and he has also contested the Order 21 Rule 58 of C.P.C., application filed by the revision petitioner. Therefore, the risk is only undertaken by the respondent/decreed holder. In the event of the petitioner succeeding before this Court in C.M.A., proceeding, the sale in favour of the petitioner, would admittedly nullify the permissions granted to the decree holder to participate in the public auction, in order to purchase the property. Therefore, I do not see any infirmity in the order passed by the trial Court.

5. With the above observations, this Civil Revision Petition is disposed of and all these issues can be canvassed in Civil Miscellaneous Appeal. No costs. Consequently, connected Miscellaneous Petition is closed.

28-11-2025

Jd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



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P.B.BALAJI J.
jd

To
The 1st Additional District and Sessions Judge (FTC),
Tiruvallur, Tiruvallur District.

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