



C.R.P.(NPD)(MD)No.983 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.983 of 2024

and

C.M.P(MD)No.5328 of 2024

1.Manikandan
2.Velmurugan
3.Sankar

...Petitioners/Petitioners/Respondents/Defendants

Vs.

1.Gomathi
2.Natarajan

...Respondents/Respondents/Petitioner/
Decree Holder/Auction Purchaser

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, the Fair and Executable order passed by the learned Principal Subordinate Judge, Tenkasi, in E.A.No.2/2023 in E.P.No.90/2021 in O.S.No.205 of 2016 dated 30.01.2024.

For Petitioners : M/s.P.Shanmugam

For Respondents : Mr.N.Vignesh for R1
No appearance for R2

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ORDER

The judgment debtors in O.S.No.205 of 2016, on the file of the Principal Sub Court, Tenkasi, are the revision petitioners herein.



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2.A perusal of the records reveal that the said suit had been filed by the mother as against her three sons seeking maintenance. A decree came to be passed by the trial Court directing the three sons to pay a sum of Rs.2,500/- each to the mother as maintenance. A charge decree was passed over the suit schedule properties. The defendants had preferred an appeal in A.S.No.32 of 2019, before the Additional District and Session Court, Tenkasi. In the appeal, though the maintenance amount was confirmed, the charge decree was set aside.

3.Alleging non-payment of maintenance amount, the mother had filed E.P.No.90 of 2021. The property was brought to sale on 24.03.2023. Before the sale could be confirmed, the defendants had filed E.A.No.2 of 2023, under Order 21 Rule 90 to set aside the sale on the ground that there are irregularities in the conduct of the sale. The executing Court after considering the submissions made on either side, has proceeded to dismiss the application on the ground that the alleged irregularities have not been made out. Challenging the same, the present revision petition has been filed.

4.Pending revision petition, the entire arrears of maintenance amount upto 08.01.2025, has been paid by the sons in favour of the mother. Considering



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the said facts, the judgment debtor had prayed for allowing E.A.No.2 of 2023 and to set aside the sale.

5.The learned Counsel appearing for the decree holder/mother had contended that, in case, if there is any default in future, they will not be able to bring the property for sale again, in case, if the execution proceedings are terminated.

6.Though the auction purchaser was served, and his name is printed in the cause list, he has not chosen to appear either in person or through Counsel. Considering the fact that so far auction sale has not been confirmed, he is not a necessary party to the revision petition for setting the sale.

7.As of now, the entire arrears of maintenance amount upto 08.01.2025, have been paid. Considering the above said circumstances, the sale that took place on 24.03.2023, shall stand set aside. However, E.P.No.90 of 2021, shall be kept in abeyance with liberty to the decree holder to revive the said E.P., in case of any default for more than three months in payment of monthly maintenance amount.



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8.The learned Counsel appearing for the revision petitioners has handed over the Demand Draft for a sum of Rs.1,88,255/-, to the learned Counsel appearing for the decree holder before this Court.

9.With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

17.03.2025

Internet:Yes/No
Index:Yes/No
RJR

To

The learned Principal Subordinate Judge, Tenkasi.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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