



C.R.P.(NPD)(MD)No.1082 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.1082 of 2024

and

C.M.P(MD)No.6005 of 2024

P.Sathiya

...Revision Petitioner/Respondent/Defendant

Vs.

S.Rajkumar

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records pertaining to the impugned order of proclamation of sale made in E.P.No.30 of 2022 in O.S.No.89 of 2019 on the file of the Sub Court, Periyakulam, Theni District, dated 08.03.2024 and set aside the same by allowing the above Civil Revision Petition.

For Petitioner : Mr.R.Shankar Ganesh

For Respondent : Mr.S.Sivaprakash

* * * * *



C.R.P.(NPD)(MD)No.1082 of 2024

ORDER

The judgment debtor in O.S.No.89 of 2019, on the file of the Sub Court, Periyakulam, Theni District, is the revision petitioner herein.

2.A perusal of the records reveal that the respondent herein had filed the above said suit for recovery of money and the decree came to be passed on 04.02.2022. On the strength of the decree, the plaintiff had filed E.P.No.30 of 2022 to realise the amount by attachment and auctioning three items of the properties mentioned in the execution proceedings.

3.A perusal of the execution proceedings reveal that the said petition had been filed to recover a sum of Rs.9,22,740/-. It further reveals that value of the first property is assessed as Rs.3,00,000/-, the second property is assessed as Rs.2,00,000/- and the third property is assessed as Rs.4,00,000/-.

4.The Court has assessed the value of the property at Rs.1,00,000/- for each one of the properties. The sale notice was issued to the judgment debtor on 30.01.2024 and the judgment debtor was served on 29.02.2024. However, the respondent has not chosen to file his objection to the sale notice. Therefore, sale proclamation was finalised on 08.03.2024 and the auction notice was issued on



C.R.P.(NPD)(MD)No.1082 of 2024

30.01.2024. Thereafter, the sale proclamation was issued, fixing the auction date on 22.04.2024. Challenging the auction sale notice, the present revision petition has been filed.

5. According to the learned Counsel appearing for the revision petitioner, the value of all the three properties put together are more than Rs.30,00,000/-. Without fixing the proper upset price, the properties have been brought to auction. He further contended that E.P. amount is just Rs.9,22,000/-. Therefore, it is not necessary to bring all the three properties for auction. According to him, the auction sale would only be an excessive execution. Hence, he prayed for allowing the revision petition.

6. Per contra, the learned Counsel appearing for the respondent/decreed holder had contended that despite notice was served upon the judgment debtor, he has not chosen to file any application or objections touching upon the valuation of the property. Therefore, he cannot raise the objection now, contending that the properties are valued at Rs.30,00,000/-.

7. I have considered the submissions made on either side and perused the materials available on record.



C.R.P.(NPD)(MD)No.1082 of 2024

WEB COPY

8.A perusal of "B" diary extract reveals that the notice was issued to the judgment debtor on 30.01.2024, for settling the terms of proclamation of sale. However, the respondent had not filed any objection to the said sale notice, when the execution proceedings came up for hearing on 29.02.2024 or on 08.03.2024. Therefore, the sale proclamation was finalised on 08.03.2024 and thereafter, auction notice was issued. In such circumstances, the judgment debtor cannot now contend that the value of the properties are more than Rs.30,00,000/- and therefore, the sale proclamation has to be quashed.

9.In view of the above said deliberations, there are no merits in the revision petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

13.02.2025

Internet:Yes/No
Index:Yes/No
RJR



WEB COPY



C.R.P.(NPD)(MD)No.1082 of 2024

To

The Sub Court, Periyakulam, Theni District.

Copy to:-

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



WEB COPY



C.R.P.(NPD)(MD)No.1082 of 2024

R.VIJAYAKUMAR, J.

RJR

C.R.P.(NPD)(MD)No.1082 of 2024

13.02.2025