



C.R..P.(NPD)(MD).No.1331 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.1331 of 2025

and

C.M.P(MD) No.6891 of 2025

1. Ariramnathan

2. Devendraraja

... Petitioners/Petitioners/
3rd Parties/
Owners of the Scheduled
Mentioned Properties/.....

Vs.

1. Johnvictor Yabanspaul

... 1st Respondent/1st Respondent/
Decree-holder/Petitioner/
Plaintiff

2. Sagunthala Anni

3. Parasakthi

4. Palanikumar

5. Theertharappan

... Respondents 2 to 5/
Respondents 2 to 5/
Judgment Debtors/
Execution Respondents/
Defendants



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PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records relating to the Fair and Decretal order passed in E.A.No.2 of 2023 in E.A.No.351 of 2007 in E.P.No.125 of 2001 in O.S.No. 255 of 1995, dated 24.07.2023 on the file of the learned Principal Subordinate Judge, Tenkasi and set aside the same.

For Petitioners : Mr.D.Srinivasaragavan

For R1 : Mr.Ananth C.Rajesh

ORDER

Third parties to O.S.No.255 of 1995, on the file of the Principal Sub Court, Tenkasi, have filed the present Civil Revision Petition challenging the dismissal of their application, wherein, they have requested for issuance of lodgment schedule to satisfy the decree amount.

2. A perusal of the records reveal that the first respondent herein has filed the above said suit for the relief of recovery of money as against the other respondents in the revision petition. The suit was decreed on 11.12.1998. The decree holder had filed E.P.No.125 of 2001 to bring the petition mentioned properties for sale. The properties were attached in the execution proceedings.



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3. The revision petitioners herein had filed E.A.No.351 of 2007 under Order 21 Rule 58 of C.P.C., to raise the order of attachment. Though this application was allowed by the trial Court, the order was reversed by the appellate Court in C.M.A.No.29 of 2015 on 27.09.2022. Pending their claim petition, the revision petitioners herein have deposited the entire decree amount on 20.02.2023.

4. Since the claim petition was dismissed, the revision petitioners herein have filed E.A.No.2 of 2023 for payment of entire decree amount through the Court and to record full satisfaction in the execution proceedings. The executing Court has dismissed the said application. Challenging the same, the present Civil Revision Petition has been filed.

5. According to the learned counsel appearing for the revision petitioners, they had purchased the petition mentioned first schedule property on 27.01.1999, the second schedule on 27.10.1999 and the third schedule on 17.12.2004 through Court auction. Therefore, they are persons interested as contemplated under Order 21 Rule 89 of C.P.C.



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6. Per contra, the learned counsel appearing for the first respondent had contended that the revision petitioners herein are third parties to the suit and they are not entitled to file any application for satisfaction of the decree amount.

7. Heard both sides and perused the materials available on record.

8. The revision petitioners herein have purchased the first schedule property from the defendants on 27.01.1999. The second schedule has been purchased on 27.10.1999. The order of attachment was passed pending suit on 29.09.1999. The third item of the property has been purchased by the revision petitioners on 17.12.2004. If the Court auction sale has taken place, the petitioners, as interested persons, would be entitled to file an application under Order 21 Rule 89 of C.P.C. As on today, sale has not taken place. In such circumstances, the revision petitioners would be in a better position to file an application before the Court for payment of decree amount.



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9. It could be seen from the records that the decree amount was deposited in E.A.No.351 of 2007 on 20.02.2023. Unless, it is deposited in E.P.No.125 of 2001, the decree holder would not be in a position to get back the amount and the Court will not be in a position to record full satisfaction.

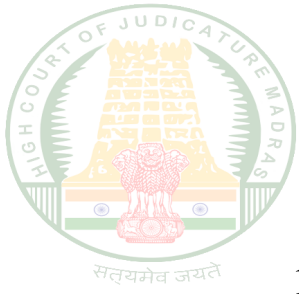
10. In view of the above said facts, this Court is inclined to pass the following orders:

a) The Executing Court is directed to transfer the amount that was deposited by the revision petitioners in E.A.No.351 of 2007 to the credit of E.P.No.125 of 2001;

b) The revision petitioners shall liable to pay interest up to the date of this order;

c) On payment of the entire interest amount as on today, the Executing Court is directed to record full satisfaction and terminate the execution proceedings; and

d) Till such time, the Executing Court shall not proceed with the sale process.



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11. With the above said observations, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

28.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Sub Court,
Tenkasi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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