

C.R.P(MD)No.3429 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2025**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.3429 of 2023
and
C.M.P(MD)No.17670 of 2023

E.Abinesh

... Petitioner/Petitioner/
3rd Defendant

Vs.

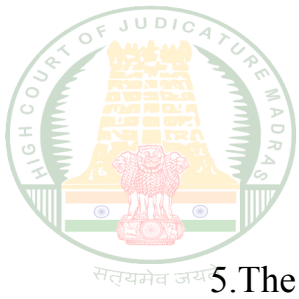
1.G.Anusuya

... Respondent/1st Respondent/
Plaintiff

2.The Branch Manager,
Indian Bank Junction Branch,
No.1087 Ground Floor,
Mission Street,
Thanjavur Town.

3.The District Collector,
District Collector Office,
Trichy-Thanjavur Main Road,
Thanjavur Town.

4.The Revenue Divisional Officer,
Revenue Divisional Office,
Near Manimandapam,
Thanjavur Town.



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5.The Tahsildar,

Thanjavur Taluk Office,
Court Road,
Thanjavur Town.

6.The Superintendent of Police,
Office of the Superintendent of Police,
Near New District Collector Office,
Thanjavur Town.

7.The Inspector of Police,
West Police Station, Palace Complex,
East Main Street,
Thanjavur Town.

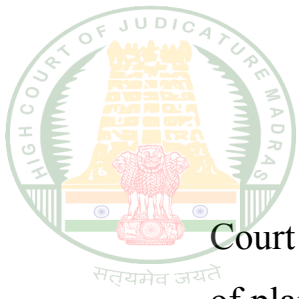
8.The Municipal Commissioner,
Thanjavur Municipality,
Aringar Anna Thirumana Mandapam,
East Gate, Thanjavur.

9.The Joint-I Sub Registrar,
Joint-I Sub Registrar Office,
New District Collector Office Campus,
Thanjavur Town.

10.The District Registrar,
District Registrar Office,
Thanjavur New District Collector Office Campus,
Thanjavur Town.

... Respondents/Respondents 2-10/
Defendant No.1,2,4 & 10

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 22.07.2022 of the



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Court below in I.A.No.345 of 2021 in O.S.No.273 of 2018 for rejection of plaint, filed by 3rd defendant U/o.7 Rule 11 of CPC.

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For Petitioner	: Mr.T.Manoharan
For R1	: Mr.M.Saravanan for V.Neelakandan
For R2	: Mr.S.Suresh
For R3-7,9,10	: Mr.S.P.Maharajan Special Government Pleader
For R8	: Mr.N.Dilipkumar

ORDER

The 3rd defendant in O.S.No.273 of 2018 on the file of Principal Sub Court, Thanjavur has filed the present revision petition challenging the order of dismissal of an application filed under Order VII Rule 11 of Code of Civil Procedure.

2. The 1st respondent herein as plaintiff has filed the above suit for the relief of permanent injunction restraining the defendants 1 to 8 from in any manner interfering with the plaintiff's peaceful possession and enjoyment of 'B' and 'C' schedule properties. The plaintiff has further



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prayed for permanent injunction restraining the defendants 1 to 8 and their men in any way taking possession of 'B' and 'C' schedule properties from the plaintiff.

3. The plaintiff has borrowed loan from the 1st defendant Bank. Due to default, 'A' schedule property was brought to auction under the SARFAESI Act. The 3rd defendant is the successful auction purchaser. Admittedly, the 3rd defendant has taken possession of 'A' schedule properties. Alleging that the 3rd defendant is disturbing his possession over 'B' and 'C' schedule properties, the present suit has been filed.

4. According to the learned counsel appearing for the 1st respondent/plaintiff, under the guise of enjoying 'A' schedule property, the 3rd defendant is disturbing 'B' and 'C' schedule properties, which has prompted the plaintiff to file the present suit. Pending suit, the 3rd defendant has filed I.A.No.345 of 2021 for rejection of plaint on the ground that the 3rd defendant, having taken possession of the property as an auction purchaser under the SARFAESI Act, the present suit filed as against the creditor Bank and the auction purchaser are barred under



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Section 34 of the SARFARSI Act. This application came to be dismissed by the trial Court on the ground that such a plea cannot be considered under Order VII Rule 11 of Code of Civil Procedure. Challenging the same, the present revision petition has been filed by the 3rd defendant.

5. Pending revision petition, when this Court questioned the plaintiff about his claim over 'A' schedule property, on instructions, he submitted that he is not making any claim over 'A' schedule property. This Court has directed the plaintiff to file an affidavit to the effect that his client is not making any claim over the 'A' schedule property. To the said effect, the 1st respondent/plaintiff has filed an affidavit, dated 27.02.2025. Paragraph No.4 of the affidavit is extracted as follows:

“4. I submit that the petitioner is in physical possession of 'A' schedule properties alone and I undertake that I will not interfere into the petitioner's possession and enjoyment of 'A' schedule properties.”

6. The 3rd defendant was also directed to file an affidavit to the effect that he is not making any claim over 'B' and 'C' schedule



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properties. Accordingly, the 3rd defendant has filed an affidavit, dated

04.03.2025. It is extracted as follows:

“It is submitted that as agreed by counsel for Respondent No.1/Plaintiff in the open Court on 12.02.2025 Afternoon, the Respondent No.1/Plaintiff will not disturb the possession and enjoyment of 'A' schedule property, (owned by D3 from 15.10.2018) and D3 also will not disturb the possession and enjoyment of 'B' & 'C' schedule property (Owned by Respondent No.1/Plaintiff G.Anusuya), this affidavit is filed on the discussion of the Hon'ble Court, dated 12.02.2025 and it is prayed that this Hon'ble Court may be pleased to render justice by disposing this C.R.P(MD)No. 3429/2023 as mentioned above.”

7. The learned counsel appearing for the plaintiff on instructions, submits that he is giving up his claim over other defendants in the suit.

8. In view of the above said facts, the suit in O.S.No.273 of 2018 on the file of Principal Sub Court, Thanjavur is decreed as prayed for as against the 3rd defendant alone. However, the plaintiff shall not disturb



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the possession of the 3rd defendant over 'A' Schedule property. The suit

shall stand disposed of on the above said terms.

9. In view of the above, this Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

04.03.2025

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

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To

- 1.The Principal Sub Court,
Thanjavur.
- 2.The District Collector,
District Collector Office,
Trichy-Thanjavur Main Road,
Thanjavur Town.
- 3.The Revenue Divisional Officer,
Revenue Divisional Office,
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Thanjavur Town.
8. The District Registrar,
District Registrar Office,
Thanjavur New District Collector Office Campus,
Thanjavur Town.
9. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.R.P(MD)No.3429 of 2023

04.03.2025