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O.S.A.No.31 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.03.2026**

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A.No. 31 of 2026

and

C.M.P.No. 2943 of 2026

H.Khalid Ahmed
S/o.R.Abdul Hakkim

... Appellant

Vs.

1. M/s.Metal Impex,
Rep.by its Partner Kamalesh S.Jain,
Prince Apartments, 59, Ormes Road,
7th Floor, Kilpauk, Chennai – 600 010.

2. Sneh M Jain
3. Badami Devi
4. Vikram U Jain
5. Vanita Jain
6. Neetu Jain
7. Rita Jain

... Respondents

Original Side Appeal filed under Order XXXVI, Rules 2 and 9 of the Madras High Court Original Side Rules read with Clause 15 of Letters Patent, to set aside the order dated 19.11.2025 in Appln.No.5299 of 2025 in C.S.No.309 of 2020 and allow the Original Side Appeal.



O.S.No.31 of 2026

For Appellant : Mrs.A.L.Gandhimathi
Senior Counsel for
Mr.L.Palani Muthu

For Respondents : Mrs.M.Devi
for Mr.R.Balaji

J U D G M E N T

(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

This intra-Court Appeal has been filed challenging the order passed by this Court in Application No.5299 of 2025 in C.S.No.309 of 2020, dated 19.11.2025.

2. The respondents herein instituted a suit in C.S.No.309 of 2020 for recovery of money against one Srinivasan and others. In the said suit, the respondents filed an application seeking attachment before judgment, wherein two schedules of properties were furnished, the first schedule comprised seven items and the second schedule is the subject property. At the first instance, this Court directed the first defendant to furnish security. Since the first defendant failed to furnish the required security, an order of attachment before judgment came to be passed in A.No.3172 of 2020 on 29.07.2021. Thereafter, the appellant herein filed A.No.5299 of 2025



seeking to raise the attachment. The said application was dismissed by order dated 19.11.2025. Aggrieved by the same, the present intra-Court appeal has been filed.

3. The learned Senior Counsel appearing for the appellant would submit that the appellant is a third party to the proceedings and had purchased the second suit scheduled property, comprised in S.F.No.42/1 measuring an extent of 1 acre and 9 cents, through a registered sale deed dated 15.11.2021 from one Mahendran Bagri, represented by his Power of Attorney agents. It is contended that prior to the purchase, the appellant had duly verified the title documents and obtained an Encumbrance Certificate, which did not disclose any order of attachment. Though the attachment was ordered on 29.07.2021, the same was entered in the Encumbrance Certificate only on 06.05.2022, and therefore, the appellant had no knowledge about the attachment at the time of purchase i.e., on 15.11.2021. It is further submitted that the appellant is a *bona fide* purchaser for valuable consideration and he is in peaceful possession and enjoyment of the property. As on date of purchase, the first defendant was not the owner of the property, however he was only a Power of Attorney holder. Hence, the attachment cannot bind the appellant and the learned single Judge failed to consider these aspects while dismissing the



application to raise the attachment and hence, the impugned order is liable to be set aside.

4. We have heard the learned counsel on either side and perused the materials available on record.

5. It is not in dispute that the order of attachment before judgment was passed by this Court on 29.07.2021. The appellant claims to have purchased the property subsequently under a registered sale deed dated 15.11.2021. Therefore, the purchase made by the appellant is clearly subsequent to the order of attachment. Merely because, the entry regarding the attachment was reflected in the Encumbrance Certificate at a later point of time, the same would not invalidate the order of attachment or confer any right upon the appellant. A purchaser subsequent to an order of attachment cannot claim to be a *bona fide* purchaser, so as to defeat the rights of the plaintiffs in a pending suit. Furthermore, any such purchase made *pendente lite* is subject to the final outcome of the proceedings and cannot prejudice the rights of the parties therein. In such circumstances, the appellant cannot claim any independent right over the property. However, whether the appellant is a *bona fide* purchaser for valuable consideration without notice, and whether he has any subsisting interest over the



O.S.A.No.31 of 2026

property at the relevant point of time, are questions to be determined through appropriate legal proceedings. The learned single Judge has also taken note of the fact that the appellant purchased the property pending *lis* and therefore, declined to raise the attachment. Under these circumstances, this Court does not find any perversity or infirmity in the order passed by the learned single Judge.

6. Accordingly, this Original Side Appeal shall stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed. The appellant is at liberty to work his remedy in the manner known to law at the appropriate time.

(P.V.,J.) (K.G.T.,J.)
10.03.2026

ms

Speaking / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No



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