



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 19.02.2026

Judgment pronounced on : 27.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.4898 & 4900 of 2023

Prasuna Ginning Mills, Gnanapavaram,
Represented by its Managing Partner
Mr.Guntupalli Vijayurarathi,
S/o.Ramchandraiah,
having their office at No.5-71-21,
6th Lane, Pandaripuram, Guntur 7,
Andhra Pradesh.

.. Petitioner in both CRPs

Vs.

1.M/s.Kalyana Chakravarthi Textiles Pvt., Ltd.,
Represented by its Managing Director,
Cherukut Jayachand,
having office at D.No.5, 1st Avenue,
T.Nagar, Balaji Colony, Chennai – 17.

2.Cherukuri Jayachand

.. Respondents in CRP.No.4898 of 2023

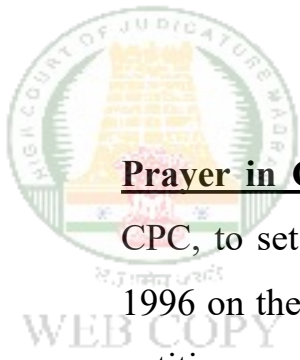
1.M/s.Kalyana Chakravarthi Textiles Pvt., Ltd.,
Represented by its Managing Director,
Cherukut Jayachand,
having office at D.No.5, 1st Avenue,
T.Nagar, Balaji Colony, Chennai – 17.

2.Cherukuri Jayachand

3.Mahaveer Kitcha

4.Suman Kitcha

.. Respondents in CRP.No.4900 of 2023



Prayer in CRP.No.4898 of 2023: Civil Revision Petition filed under Section 115 of CPC, to set aside the order and decree passed in E.P.No.81 of 2006 in O.S.No.429 of 1996 on the file of the Principal Subordinate Judge, Ponneri and to allow the execution petition.

Prayer in CRP.No.4900 of 2023: Civil Revision Petition filed under Section 115 of CPC, to set aside the order and decree dated 18.11.2021 passed in E.A.No.79 of 2008 in E.P.No.81 of 2006 in O.S.No.429 of 1996 and to allow E.P.No.81 of 2006 on the file of the Principal Subordinate Judge, Ponneri.

For Petitioner : Mr.V.Haribabu in both CRPs

For Respondents : Mr.Ravi Kumar Paul
Senior Counsel
for Mr.B.Murugavel for R3 in CRP.No.4900 of 2023
RR1 & 2 paper publication effected in CRP.No.4898 of 2023
R4 Tapal returned in CRP.No.4900 of 2023

COMMON ORDER

The decree holder is the revision petitioner in both the Civil Revision Petitions.

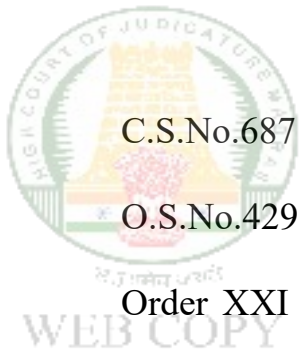
2.I have heard Mr.V.Haribabu, learned counsel for the revision petitioner in both the revision petitions and Mr.Ravi Kumar Paul, learned Senior Counsel for Mr.B.Murugavel, learned counsel for the 3rd respondent in CRP.No.4900 of 2023.



3.The respondents 1 and 2, despite multiple attempts to serve them, have remained elusive and evasive and hence, this Court has directed the revision petitioner to effect paper publication. In compliance with the same, the learned counsel for the petitioner has also effected paper publication in DT Next, Chennai Edition, English Daily and Malai Malar, Chennai Edition, Tamil newspaper dated 04.02.2026 and 05.02.2026. The respondents 1 and 2 are called and set ex-parte.

4.The facts, that are necessary for disposal of these revision petitions are as follows:

The Managing Director of the first respondent had approached the petitioner and purchased cotton bales from the petitioner on credit basis. A promissory note was executed by the Managing Director of the first respondent for Rs.30,76,125/- on behalf of the first respondent Company. In view of default committed by the first respondent Company, the petitioner filed a suit in O.S.No.429 of 1996. In the suit, the respondents 1 and 2 offered to settle the matter and after negotiations, a compromise decree was passed on 24.12.1996. The petitioner filed E.P.No.81 of 2006 for recovery of Rs.71,17,907.75/- by way of attachment and sale of the properties belonging to the respondents 1 and 2. In the said execution petition, the respondents 3 and 4 invoked provisions available under Order XXI Rule 58 of CPC, stating that even prior to the execution petition filed by the petitioner in C.S.No.687 of 1995, the suit property was already attached in their favour. The said application was opposed by the revision petitioner, contending that a decree in



C.S.No.687 of 1995 was collusive and only in order to defeat the compromise decree in O.S.No.429 of 1996. After enquiry, by order dated 18.11.2021, the said application under Order XXI Rule 58 of CPC was allowed and the EP was dismissed. Challenging the dismissal of the said EP, CRP.No.4898 of 2023 has been filed and as against the order allowing the application under Order XXI Rule 58 of CPC in E.A.79 of 2008, CRP.No.4900 of 2023 has been filed.

5.Mr.V.Haribabu, learned counsel appearing for the revision petitioner in both the revision petitions would submit that the respondents 1 and 2 have played fraud upon the Court and also the petitioner/decreed holder. According to learned counsel for the petitioner, respondents 3 and 4 are also party to fraud, as they have colluded with the respondents 1 and 2 to defeat the legitimate claims of the petitioner. He would state that fraud being an act of deliberate deception, with the design of securing something by taking unfair advantage of another, then such an act of cheating vitiates every solemn act.

6.Relying on the decision of the Hon'ble Supreme Court in *S.P.Chengalvaraya Naidu (Dead) by LR's Vs. Jagannath (Dead) by LR's and Others* reported in (1994) 1 SCC 1 and *Indian Bank Vs. Sathyam Fibres (India) Private Limited*, reported in 1996 (5) SCC 550, Mr.V.Haribabu, learned counsel would state that the respondents 1 and 2 have hoodwinked the petitioner, offering their property, suppressing the fact that they have



already offered the very same property to various creditors and therefore, it is a clear case of fraud and in such event, the petitioner cannot be made to suffer by allowing the fraudsters to take undue advantage. He would also take me through the relevant encumbrance certificates and contend that even prior to the attachment, in respect of which benefit and advantage is thought to be secured by the respondent 3 and 4, there are other encumbrances over the very same property and therefore, he would contend that the respondent 3 and 4 are not bonafide purchasers. He would therefore pray for the revision petition being allowed.

7.Mr.Ravi Kumar Paul, learned Senior Counsel, assisted by Mr.B.Murugavel, learned counsel for the respondents 3 and 4 would submit that one A.S.Jayaraj and J.P.Cotton Merchants have filed a suit against the judgment debtors before this Court in C.S.No.687 of 1995 and in the said suit, an order of attachment before judgment was passed on 08.07.1996. Subsequently, the suit was also decreed on 17.03.1998 and decree was transmitted to the Sub-Court, Ponneri, in view of the location of the property and in E.P.No.21 of 2000, the property of the judgment debtor was brought for sale and a public auction was conducted on 27.07.2005 and one Muthuraj was declared as the highest bidder and the sale was also confirmed way back on 27.09.2005.

8.Mr.Ravi Kumar Paul, learned Senior Counsel would further state that sale certificate was also issued on 27.12.2005 to the said Muthuraj and he also moved an



execution petition for delivery of the property and on 09.01.2007, the said Muthuraj has also taken possession of the property and mutated revenue records in his name as well.

The respondents 3 and 4, whom the learned Senior Counsel represents, have purchased the property under registered sale deed dated 05.02.2007 in Doc.No.1722/2007 on the file of the S.R.O, Ponneri from the said Muthuraj and subsequently, they have mutated revenue records, including patta in their name and they have been in peaceful possession and enjoyment of the subject property. Mr.Ravi Kumar Paul, learned Senior Counsel would therefore state that there is no question of collusion between respondents 3 and 4, who were nowhere in the picture at the relevant point of time. He would also state that the respondents 3 and 4 are bonafide purchasers for value, having purchased the property from a Court auction purchaser to whom sale certificate has also been issued. He would therefore pray for dismissal of the revision petition.

9.I have carefully considered the submissions advanced by the learned counsel for the petitioner and the learned Senior Counsel for the respondents 3 and 4.

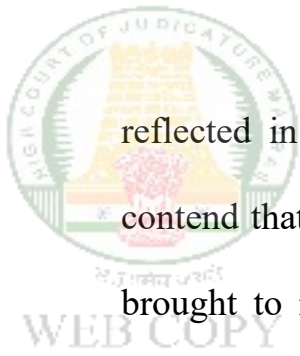
10.It is not in dispute that the petitioner obtained a decree, based on a compromise memo. In the said compromise memo, the judgment debtors, who are respondents 1 and 2 herein had offered certain properties as security, with liberty to the decree holder to proceed against the said property, in the event of default committed by them in payment of the agreed amount under the compromise decree. The respondents 1 and 2 have



admittedly committed default, which forced the petitioner to initiate execution proceedings. It is in the said execution petition where the petitioner sought for attachment and sale. At that juncture, the respondents 3 and 4, who are the present owners of the subject properties, have come forward with an application under Order XXI Rule 58 of CPC to adjudicate their claim, objecting to the order of attachment.

11.The executing Court, after due inquiry, has found that the compromise decree was not registered and therefore, it cannot be enforced and be valid and binding against innocent third party purchasers and further held that the compromise decree itself was required to be registered, as it created a right for the first time in immovable property of value of Rs.100/- and upwards, relying on the decision of the Honourable Supreme Court in *Bhoop Singh Vs. Ram Singh Major and others*, reported in (1995) 5 SCC 709. The executing Court further held that as the property was attached by orders of the High Court, even as early as on 20.05.2002 and thereafter, brought for sale and also sold and changed hands and mutation of revenue records has also taken place and the respondents 3 and 4 are in lawful possession and enjoyment and their objections will have to be necessarily upheld.

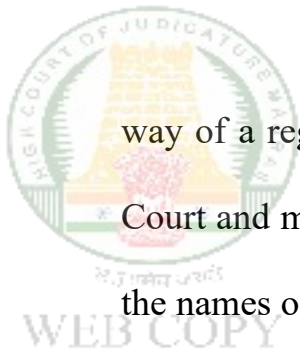
12.Admittedly, the compromise decree in favour of the petitioner has not been registered with the Sub-Registrar concerned. At the same time, as pointed out by Mr.V.Haribabu, there are other attachments over the very same property, which are



reflected in the encumbrance certificate. Relying on the same Mr.V.Haribabu would contend that the respondents 3 and 4 are not bonafide purchasers. However, it has been brought to my notice that the claims under the various Court attachments that were reflected in the encumbrance certificate were fully settled before sale of the property and a full satisfaction memo had also been filed by the decree holder and therefore, the arguments in this regard cannot be countenance.

13.Be that as it may, the compromise decree, no doubt, permitted the petitioner to sell the subject property, which has been purchased and held by the respondents 3 and 4. I see force in the submission of Mr.V.Haribabu that the respondents 1 and 2 have cheated and duped the petitioner into entering into a compromise memo, suppressing the fact that the respondents 1 and 2 have already offered the very same property as security for various other financial transactions. The petitioner, being not aware of the said position, has believed the respondents 1 and 2 and entered into the compromise memo. However the said act of fraud or cheating by the respondents 1 and 2 cannot affect the title of the respondents 3 and 4.

14.As already seen and discussed, this Court had already attached the subject property in a civil suit and pursuant to a decree passed in the suit, the property was brought for sale in public auction and the sale was also confirmed in favour of the highest bidder, who in turn has conveyed the property to the respondents 3 and 4, by



way of a registered sale deed. The successful bidder had also taken possession through Court and mutation of revenue records have also taken place, including in the present in the names of the present owners, namely respondents 3 and 4. Therefore I do not see any merit in the argument that the respondents 3 and 4 have colluded with the judgment debtors, namely respondents 1 and 2. They are total strangers to respondents 1 and 2 and they are certainly bonafide purchasers for valuable consideration, in the absence of the decree being reflected in the encumbrance certificate or there being any attachment or relevant encumbrance noted in the encumbrance certificate, for cautioning the respondents 3 and 4 from proceeding to buy the property. In the light of the above, I do not find any infirmity in the order of the executing Court, allowing the Order XXI Rule 58 of CPC application. There is no merit in the revision petition. However, it is made clear that the respondents 1 and 2, having played a fraud upon the decree holder, the decree holder is not obligated to go by the terms of the compromise memo and it shall be open to the petitioner to proceed against any of the other properties, that may be available and belonging to the respondents 1 and 2 to recover the decree amount.

15. In fine, the Civil Revision Petitions are dismissed with the above liberty. There shall be no order as to costs.

27.02.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J,

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To

The Principal Subordinate Court, Ponneri.

Pre-delivery order made in
CRP.Nos.4898 & 4900 of 2023

27.02.2026