



C.M.A.No.2331 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2331 of 2024

and

C.M.P.No.18500 of 2024

1.Sivagamy
2.Bagyalakshmi
3.G.Keerthivasan

...Appellants

vs.

District Official Receiver of Dharmapuri and Krishnagiri,
Combined Court Buildings,
Rayakota Road,
Krishnagiri,
Krishnagiri District.

...Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Order XLIII Rule 1 of CPC., to set aside the judgment and decree dated 11.07.2024 made in I.A.No.7 of 2024 in O.S.No.254 of 2023 on the file of the Additional District Court at Dharmapuri.

For Appellants : Mr.S.Subramanian

For Respondent : Mr.S.Mukunth

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JUDGMENT

This Civil Miscellaneous Appeal is directed against the fair and decreetal order dated 11.07.2024 on the file of the Additional District Court, Dharmapuri, passed in I.A.No.7 of 2024 in O.S.No.254 of 2023.

2. The parties are indicated herein as per the litigative status and ranking before the Trial Court.

3. The plaintiffs 1 to 3 herein took out an application under Order XXXIX Rule 1 of CPC and Section 151 of CPC to restrain the respondent / District Official Receiver, Dharmapuri at Krishnagiri from proceeding further with the auction of the suit properties scheduled to be held on 11.07.2024 or any other date, by an order of temporary injunction pending disposal of the suit.

4. The details in the affidavit are stated in brief. Originally, the suit property was purchased by one Sengan @ Vedichi Gounder by registered sale deeds dated 27.10.1909 and 28.02.2010. After the demise of the aforesaid Sengan @ Vedichi Gounder, the suit property devolved upon

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his son Mondhan @ Vedi Gounder, in whose name patta was granted in patta No.950. After the lifetime of the said Mondhan, his son Dhanapal and his grandson Jalapathy succeeded to the suit property. One S.C.Gandhi purchased the suit property from them under a registered sale deed dated 15.07.1997. Since then, he had been in peaceful continuous possession and enjoyment of the suit property till his death on 12.10.2020. After the demise of S.C.Gandhi, the petitioners, who are the legal heirs of the deceased S.C.Gandhi have succeeded to the suit property and they have been in possession and enjoyment of the suit property and obtained patta in patta No.2599.

4.1. Meanwhile, proclamation of sale was published by the respondent on the Notice Board of the Sub Registrar Office at Karimangalam. It has been mentioned in the said proclamation that the said sale is to be taken in pursuance of the insolvency proceedings connected to I.P.No.26 of 2002 (Sub Court, Salem)/ I.P.No.2 of 1971 (Official Receiver Court, Krishnagiri District). Upon enquiry, it was found out by the petitioners that the suit property did not belong to the insolvent S.M.Vadivelu Chetty at any point of time. Thus, an auction notice dated 29.09.2023 issued by the respondent is not legal. The respondent has no territorial jurisdiction over the suit property after the bifurcation of the

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judiciary of the erstwhile combined district of Dharmapuri into two districts, namely, Dharmapuri, Krishnagiri. For those reasons also, the impugned notice is not valid.

4.2. The respondent ordered the proclamation of sale afresh with regard to the suit property scheduled to take place on 11.07.2024. The petitioners have a prima facie case. Balance of convenience lies in favour of the petitioners. If the respondent proceeds further, the petitioners will suffer hardship and irreparable injury which cannot be compensated in terms of money. Henceforth, this application is filed to restrain the respondent from conducting auction of the suit property scheduled to be held on 11.07.2024 pending disposal of the suit.

5. The details of the counter are given in a nutshell:

The real fact is that one Chandrapullai Gounder had filed an insolvency petition in I.P.No.26 of 1962 before the Sub Court, Salem, praying to adjudge one S.M.Vadivelu Chettiyar as insolvent. After full trial, it was ordered on 16.12.1963 in the said I.P., Sub Court, Salem, declaring S.M.Vadivel Chettiyar as insolvent. In effect, the properties of S.M.Vadivel Chettiyar got vested with the Official Receiver. On 23.08.1966, Lakshmi Ammal, w/o. Chandrapullai Gounder submitted an indemnity bond before



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the Official Receiver by stating that Chandrapullai Gounder died leaving behind herself, Madhu, Saali (daughters), Raja and Gandhi (sons) as legal heirs and they were willing to proceed with the case and undertake to pay off the legal expenses. By this, it is clear that legal heirs of Chandrapullai Gounder had knowledge about the properties including the suit property of S.M.Vadivel Chettiyar measuring 4.00 acres.

5.1. The properties of Vadivel Chettiyar were taken possession by the Official Receiver through the Village Administrative Officer of Adilam Village on 17.09.1972. In turn, the Official Receiver leased out above mentioned properties through public auction on 23.09.1972 and one Kandha gounder was the highest bidder. The lease period was for nine months. Out of the said property, again through auction one Ganesan purchased acre 1.50 cents of land through sale deed in Doc.No.628 of 1978 and one Vajravel purchased acre 1.20 cents land through sale deed in Doc.No.153/1979. The remaining extent of land is to be sold. Meanwhile, S.M.Vadivel Chettiyar filed an application for re-auction, since two sales were effected for a lesser amount. The Sub Court, Krishnagiri, passed an order on 22.12.1981, cancelling the aforesaid two sale deeds and a direction was issued to the Official Receiver to give wider publicity as to the auction sale.

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5.2. The respondent followed all due process and issued auction notice to sell a portion of land on 27.02.2023. The auction was conducted on 29.03.2023. A close relative of the petitioners, the second defendant/Gopal was declared as the highest bidder. Sale Deed was executed by the Official Receiver of Krishnagiri in favour of the second defendant/Gopal on 21.04.2023. The respondent issued auction notice to sell the other portion of land on 29.09.2023 and the auction was scheduled to be held on 30.10.2023.

5.3. The grandfather of the petitioners, Chandrapullai Gounder had filed insolvency petition by stating that the suit property belonged to S.M.Vadivel Chettiyar. Now, the petitioners have filed a suit by stating that S.C.Gandhi, s/o. Chandrapullai Gounder, is the owner of the suit property. The petitioners/plaintiffs are trying to mislead the Court by suppressing the fact that the insolvency property is vested with the Official Receiver of Adilam Village in survey Nos.310/2 and 310/3. The petitioners were in unlawful possession of the suit property. In survey No.310/3, for an extent of acre 1.20 cents was sold to one Rajmohan by way of sale deed dated 25.04.2023 in Doc.No.1086 of 2023. An extent of 4.00 acres in survey No.310/1 and a portion of 0.31 cents were sold to one Gopal by way of

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sale deed dated 25.04.2023 in Doc.No.1088 of 2023. Likewise, survey No.310/3 to an extent of 0.74 cents was sold to one Rasool through sale deed dated 06.11.2023 in Doc.No.3058 of 2023 and in survey No.310/3 to an extent of 0.25 cents was gifted to Block Development Officer, Karimangalam for pathway from the property sold to Rajmohan through gift deed on 10.01.2024 in Doc.No.75 of 2024.

6. During enquiry, none was examined by either side. On the petitioners' side, eight documents were marked and on the respondent's side, seven documents were marked.

7. The petitioners herein have filed a suit in O.S.No.254 of 2023 for a relief of declaration of title for permanent injunction restraining the respondent from interfering with the petitioners' peaceful possession and enjoyment of the suit property for a relief of declaration that the sale deed dated 21.04.2023 as null and void and to declare the auction notice dated 29.09.2023 as null and void and for other reliefs.

8. Ex.P1 is the sale deed dated 15.07.1997 in the name of S.C.Gandhi. Ex.P2 is computerised patta stands in the name of petitioners/plaintiffs. Ex.P3 is the Certified copy of the sale deed dated



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20.10.1909 in the name of Sengan @ Vedichi Gounder. Ex.P4 is the certified copy of the sale deed dated 05.12.1909 in the name of Sengan @ Vedichi Gounder. Ex.P6 is the certified copy of the sale deed dated 21.04.2023 in the name of the second defendant (Gopal s/o.Gowra Gounder) of Mukkanur Village, Karimangalam Taluk.

9. Ex.R1 is the copy of the petition in I.P.No.26 of 1962 on the file of the Sub Court, Salem. Ex.R2 is the mortgage deed dated 20.08.1962 in Doc.No.2184 of 1962 executed by Munusamy Chettiyar in favour of S.M.Vadivel Chettiyar. Ex.R3 is the copy of the order in I.P.No.26 of 1962 on the file of the Sub Court, Salem dated 16.12.1963. Ex.R4 is the Proclamation Report given by the Village Administrative Officer, Adilam to the Official Receiver, Dharmapuri.

10. The petitioners 1 to 3 are the wife and children of S.C.Gandhi and his father is Chandrapullai Gounder. From the aforesaid records, it is pellucid that the second and third petitioners, granddaughter/grandson of Chandrapullai initiated insolvency proceedings against the aforesaid S.M.Vadivel Chettiyar mentioning suit property in the insolvency petition. The Auction Court, on merits, adjudged S.M.Vadivel Chettiyar as insolvent by an order dated 16.12.1963. On the basis of the orders passed in I.P. Page No.8/11



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No.26 of 1963, the suit property was brought to auction sale and certain properties were sold through auction and the same has been reflected in the encumbrance certificate (Ex.R7).

11. The suit property was shown in I.P.No.26 of 1962, which was filed by Chandrapullai Gounder against S.M.Vadivel Chettiyar, grandfather of the petitioners 2 and 3 herein by filing insolvency proceedings mentioning suit property in the Insolvency Petition. It is made clear that the property belonged to S.M.Vadivel Chettiyar. Therefore, it should not lie in the mouth of the petitioners that the property was, subsequently, purchased by the first petitioner's husband's father Chandrapullai Gounder. When the insolvency proceedings were initiated by the grandfather of the petitioners 2 and 3, it also should not lie in the petitioners' mouth that they have no knowledge about the insolvency proceedings. In such circumstances, the petitioners have not made out a *prima facie* case regarding title of the suit property and their case falls on the ground. In such circumstances, they are not entitled to temporary injunction as prayed for. In view of the afore stated reasons, this Court does not find any perversity and infirmity in the orders of the Trial Court. This Court also does not find any good reason to upset the finding of the Trial Court.

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12. Above being the position, this Civil Miscellaneous Appeal stands dismissed. Sequel to this, the fair and decreetal order dated 11.07.2024 passed in I.A.No.7 of 2024 in O.S.No.254 of 2023 stands confirmed. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2026

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
apd

To

- 1.The Additional District Judge,
Dharmapuri.
2. District Official Receiver of Dharmapuri and Krishnagiri,
Combined Court Buildings,
Rayakota Road,
Krishnagiri,
Krishnagiri District.
3. The Section Officer,
VR Section,
High Court, Madras.



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R.KALAIMATHI, J.

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