IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.01.2026

PRONOUNCED ON : 29.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3811 of 2025
and
C.M.P.No.20228 of 2025

R.Nagakrishnan ... Petitioner

vs.

1.P.Lingaraj
Son of Periyaswamy,
Proprietor,
M/s. New Raj Agencies,
No. 17, 200 Feet Road,
Ganapathy Nagar,
Thuraipakkam,
Pallavaram,
Chennai-600 043.

2.M/s.Vasavi Builders,
Rep. by its Proprietor,
Mr.P.B.Krishna Prasad,
No.8A, Kandasami Street,
Raja Annamalaipuram,
Chennai-600 028.

3.The Tax Recovery Officer-I,
Office of the Chief Commissioner of Income Tax-I,
Mahathama Gandhi Salai,
Nungambakkam, Chennai-600 034. ... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the Plaint in O.S.No.114 of 2025, on the file of District Munsif Court, Pallavaram, as it is in gross abuse of process of law, barred by limitation and by the principles of res judicata.

For Petitioner	: M/s.Srimathi V.
For R1	: Mr.S.Mugesh
For R3	: Mr.S.Abubacker Sidhic Standing Counsel for IT
For R2	: Vacated

O R D E R

The Civil Revision Petition is filed seeking to strike off the plaint in O.S.No.114 of 2025 on the file of the District Munsif Court, Pallavaram filed by the 1st respondent/plaintiff seeking declaration that Sale Certificate dated 11.04.2025 granted in favour of the petitioner herein by the 3rd respondent/3rd defendant was null and void and for permanent injunction restraining the petitioner and other defendants from interfering with 1st respondent's peaceful possession and enjoyment of the suit property.

2. It is the case of the 1st respondent that there was Sale Agreement between 1st respondent and 2nd respondent, whereunder the 2nd respondent agreed to sell the subject property to the 1st respondent in lieu of amount payable by 2nd respondent to 1st respondent. According to the 1st respondent, the agreement was entered into on 18.07.2015 and 1st respondent/plaintiff was put in possession of the suit property. Thereafter, the 3rd respondent attached the suit property standing in the name of the 2nd respondent and sold the same to the petitioner and issued a Sale Certificate. Challenging the said Sale Certificate issued by 3rd respondent in favour of the petitioner, the 1st respondent herein filed the above said suit stating that auction of the 3rd respondent after Sale Agreement between the 1st respondent and 2nd respondent cannot be countenanced.

3. The petitioner herein filed this revision seeking to strike off the plaint of the 1st respondent mainly on the ground that the present suit filed by the 1st respondent is a clear abuse of process of the Court, as earlier writ petition filed by the 1st respondent challenging auction notice issued by the 3rd respondent herein in respect of the suit property was dismissed by this

Court by holding that the Private Sale Agreement between the respondents 1 and 2 will not deter the 3rd respondent from bringing the property standing in the name of the 2nd respondent/defaulting assessee for auction sale.

4. It is not in dispute that the 3rd respondent attached the property of 2nd respondent for the default committed by him in payment of income tax. Earlier, when the 3rd respondent issued Sale Notice, the said auction notice was challenged by the 1st respondent by filing a writ petition in W.P.No.7519 of 2021. The said writ petition was dismissed by this Court by observing as follows:-

> *"4.The petitioner has attempted to stall the auction that was to be taken place on 22.03.2021. The petitioner has no locus standi to question the auction of the property based on a private sale agreement dated 18.07.2015. It is open for the petitioner to workout his remedy before the District Court at Chengalpattu in O.S.No.464 of 2022 to recover the amount that has remained unpaid by the said 'M/s.Vasavi Housing Infrastructure Limited' represented by P.B.Krishna Prasad to the petitioner. If the said 'M/s.Vasavi Housing Infrastructure Limited' was in arrears of tax, the properties standing in its name can be attached by the Government to recover the due. It is open to the Income Tax Department to bring the property to*

sale in accordance with the provisions of the Income Tax Rules. Merely because there is a private agreement between the petitioner and the said 'M/s.Vasavi Housing Infrastructure Limited' represented by P.B.Krishna Prasad ipso facto would not mean the petitioner to put spokes into recovery proceedings."

5. The argument made by the 1st respondent based on the Sale Agreement Dated 18.07.2015 was repelled by this Court and 3rd respondent was permitted to proceed with the auction. Now, pursuant to the auction sale, the Sale Certificate has been issued by the 3rd respondent in favour of the petitioner. The order passed in W.P.No.7519 of 2021 has attained finality and the same has not been challenged by the 1st respondent. Therefore, the 1st respondent is not entitled to challenge the Sale Certificate issued by the 3rd respondent in favour of petitioner by filing a separate suit. Infact, while dismissing the writ petition, this Court observed that 1st respondent is entitled to work out his remedy of recovering the unpaid amount from the 2nd respondent in the pending suit in O.S.No.464 of 2022 on the file of the District Court, Chengalpattu. When the challenge to auction notice itself was rejected by this Court, the present suit filed by the 1st respondent challenging the subsequent Sale Certificate issued by the 3rd respondent is nothing but a

relitigation and abuse of process of the Court. The right of the 1st respondent as against the 2nd respondent has been preserved by this Court and it is always open to the 1st respondent/plaintiff to workout his remedy in the pending Specific Performance suit in O.S.No.464 of 2022.

6. In the light of the order passed by this Court in W.P.No.7519 of 2021, this Court feels that the present suit filed by the 1st respondent challenging the subsequent Sale Certificate issued by the 3rd respondent is nothing but relitigation and abuse of process of the Court. Therefore, this Court comes to the conclusion that this is a fit case to exercise its supervisory power under Article 227 of the Constitution of India.

7. The learned counsel appearing for the 1st respondent by relying on Rule 9 of Schedule II to the Income Tax Act, 1961, submitted that the 1st respondent is entitled to file a suit in respect of any transaction vitiated by fraud. The relevant rule reads as follows:-

> *"9. **General bar to jurisdiction of civil courts, save where fraud alleged**.-Except as otherwise expressly provided in this Act, every question arising between the Tax Recovery*

Officer and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises:

***Provided** that a suit may be brought in a civil court in respect of any such question upon the ground of fraud.”*

8. A perusal of the said provision would make it clear that aggrieved party can always file a suit in respect of any question on the ground of fraud. However, a perusal of the plaint averment would indicate that the 1st respondent has not pleaded any act of fraud on the part of the 3rd respondent. The 1st respondent is an Agreement Holder, he has not acquired any interest in the property till date. The 3rd respondent attached and brought the property of the 2nd respondent for sale and the same was sold in favour of the petitioner. In the absence of any pleadings that the said action of the 3rd respondent is vitiated by any fraud, the 1st respondent is not entitled to rely on Rule 9 of Schedule II to the Income Tax Act, 1961. Therefore, the said submission is also not acceptable to this Court.

9. In view of the same, the Civil Revision Petition stands allowed and the suit filed by the 1st respondent in O.S.No.114 of 2025 is ordered to be struck off from the file of the District Munsif Court, Pallavaram. No costs. Consequently, the connected civil miscellaneous petition is closed.

29.01.2026

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm

To

1.The District Munsif Court,
Pallavaram.

2.The Tax Recovery Officer-I,
Office of the Chief Commissioner of Income Tax-I,
Mahathama Gandhi Salai,
Nungambakkam, Chennai-600 034.

S.SOUNTHAR, J.

dm

Pre-delivery order made in
C.R.P.No.3811 of 2025

29.01.2026