



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 5206 of 2025

K.Sakthivel

Petitioner(s)

Vs

1. T.R.Guruvenkatachalam

2.P.Pon Nandhagopal

Respondent(s)

PRAYER

To set aside the order and decretal order dated 01.09.2025 in IA No. 1 of 2025 in IA No. 189 of 2015 in OS No. 22 of 2015 on the file of I Additional District Court, Erode by allowing this Revision.

For Petitioner(s): Mr.K.J.Parthasarathy

For Respondent(s): Mr.T.S.Baskaran, for R1

ORDER

Heard Mr.K.J.Parthasarathy, learned counsel appearing for the revision petitioner/third party and Mr.T.S.Baskaran, learned counsel for the first respondent/decreed holder.



2. Mr.K.J.Parthasarathy, learned counsel for the revision petitioner states that the petitioner as a third party moved an interim application in IA.No.1 of 2025 to raise the order of attachment passed in I.A.No.189 of 2015, by order dated, 23.09.2025. The learned counsel pointing out to the decree being one for recovery of money filed by the first respondent/decreed holder/plaintiff as against the second respondent judgment debtor/defendant, brings to my notice the order of attachment, which came to be passed on 23.09.2015. The suit was decreed exparte on the same date on which the order of attachment came to be passed. The petitioner contending that he has purchased the property, which was attached on 23.09.2015, even earlier, namely, on 02.03.2015, in and by a registered sale deed, has moved the Trial Court for raising the order of attachment. However, the Trial Court has erroneously found that unless the money decree is satisfied, the petitioner, though being a purchaser would not be entitled to raise the order of attachment. The learned counsel therefore, prays for revision being allowed.

3. Per contra, Mr.T.S.Baskaran, learned counsel appearing for the first respondent/decreed holder, would contend that the Trial Court has not passed any erroneous order. According to the learned counsel, the finding of the Trial Court was that pending application for attachment before the judgment alone, the petitioner had purchased the property and therefore, he cannot plead ignorance or claim that he is a bonafide purchaser without notice.



4. I have carefully considered the submissions advanced by the learned counsel for the parties. Admittedly, no interest in the immovable property was subject matter of the suit, which was filed by the first respondent, as plaintiff, as against the second respondent/defendant. It was a simpliciter suit for recovery of money and along with the suit, the first respondent had filed an application under Order 38 Rule 5 of the Code of Civil Procedure seeking attachment of the immovable property, which originally belonged to the second respondent/defendant. On the date of the suit being decreed *exparte*, the application for attachment before judgment was also favourably considered and ordered in favour of the first respondent.

5. However, the petitioner being a stranger to the *lis*, came forward with I.A.No.1 of 2025, invoking Order 38 Rule 9 CPC for raising the order of attachment, contending that his purchase was prior to the order of attachment being passed by the Trial Court. The Trial Court, without noticing the same, has erroneously proceeded to hold that it is the duty of the third party to satisfy the decree, before he becomes entitled to an order of raising the attachment. Once the petitioner is able to demonstrate that, on the date of his purchase, that too, by way of a registered instrument, there was no attachment of the immovable property concerned, then the petitioner was certainly entitled to protection and the application under Order 38 Rule 9 CPC ought to have been allowed.



6. The Trial Court, on an erroneous consideration has proceeded to dismiss the application, which necessarily requires to be interfered in revision.

Accordingly, CRP is ordered. However, it is made clear that the first respondent is at liberty to avail all other remedies available in respect of the other properties belonging to the second respondent, in order to satisfy the decree. No costs.

28-01-2026

pvs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The I Additional District Judge,
Erode



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P.B.BALAJI J.

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