



CMP(MD) NO. 7186 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27-03-2026

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CMP(MD) NO. 7186 of 2025

IN

SA(MD) SR NO. 24455 OF 2025

1.P.Palanikumar
S/o. P.Ramasamy
184, H/7
Solaimalai Ayyanar Koil Street
Bunglowmedu
Theni Town
Theni District 625 531.

Petitioner(s)

Vs

1.Shree Ramakrishna Sevashramam
Registered Trust Through its Managing Trustee
Shreemath Swamy Athmanandha (Died) Shree Ramakrishna
Sevashramam
Registered Trust
represented through its present management Sri Ramakrishna
Thapovanam
through its Secretary Swamy Sathyananda
Thiruparaidurai
Tiruchirappalli District.

Cause title amended by substituting R1 as per the order of this court dated 23.02.2026 made in CMP(MD)No.2335 of 2026 in CMP(MD)No. 7186 of 2025 in SA(MD)SR No. 24455 of 2025 by KMSJ.

2. Shreemath Swamy Mukthanandha
Sivapuram
Sukkankalpatty Post
Chinnamanur (via)
Theni District.



P.Subbaiah (Died)

3.Indirani

W/o. Late. P.Subbaiah

Old Address

Ward No.18

Kamatchiamman Koil Street

Gudalur Village

Uthamapalayam Taluk

Theni District.

New Address

Door No.70

Kamatchiamman Koil Street

Gudalur Village

Uthamapalayam Taluk

Theni District.

4. Jayapoopathy

D/o. Late. P.Subbaiah

Old Address Thadikombu Village

Dindigul District.

New Address

W/o. T.Muthusamy

Amman Nagar

Thadikombu Village

Nilakottai Taluk

Dindigul District.

5. Manikandan

S/o. Late. P.Subbaiah

Old Address

Karunanithi Nagar

Saibaba Kovil Colony

Coimbatore North

Coimbatore District.

New Address

No.55

Pitchaimani Veedu

Karunanithi Nagar

Saibaba Kovil Colony

Coimbatore North

Coimbatore District.



6. Venkatesh
S/o. P.Subbaiah
Old Address
Sasthiri Nagar
Thadikombu Village
Dindigul District.
New Address
No.97-A
Sasthiri Nagar
Thadikombu Village
Nilakottai Taluk
Dindigul District.

7. Rathinavel Pandian
S/o. Late. Subbaiah
Old Address
Ward No.18
Kamatchiamman Koil Street
Gudalur Village
Uthamapalayam Taluk
Theni District.
New Address
Door No.65
Raj Nagar
Erukkameni
Coimbatore Town
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8. Malarvizhi
D/o. Late. Subbaiah
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9. Sri Ramakrishna Thapovanam
Through its Secretary Swamy Sathyananda
Shree Ramakrishna Tapovanam
Thiruparaidurai
Tiruchirappalli District.

Respondent(s)

For Petitioner(s):

M/s.M.Senthilkumar
K.Vidya
C.Abul Kalam Azad

For Respondent(s):

M/s. R.Suriyanarayanan
S.Saravanakumr CAVEATOR FOR R3 TO R8
M/s. H. Arumugam for R1, 2 & 9

Prayer:

To Grant Leave to the petitioner / 3rd party to file the above Second Appeal as against the judgment passed in AS No.103 of 2004 dated 27.04.2023 passed by the learned Subordinate Judge, Uthamapalayam whereby confirmed the decree and judgment passed in OS No.206 of 2000 dated 20.10.2003 on the file the learned District Munsif Court, Uthamapalayam and thus render justice.

ORDER

Heard the learned Counsel for the petitioner and Mr.R.Suriyanarayanan, learned Counsel appearing for the respondents 3 to 8.

2.Application has been filed seeking grant leave to file Second Appeal. According to the petitioner, the petitioner has purchased the property under registered sale deed dated 21.11.2001 from respondents 1 and 2 in the present petition, who were admittedly parties to the litigation.



3.It is the case of the petitioner that the Managing Trustee of the first respondent also passed away and the respondents 1 and 2 are now managed by the ninth respondent. It is the further case of the petitioner that the petitioner was not aware of the litigation pertaining to the property and he is a bonafide purchaser. Learned Counsel further states that the suit is one for declaration and the sale deed in favour of the vendor of the petitioner has also not been challenged. In such circumstances, learned Counsel states that the respondents 1 & 2 are now showing no interest pursuant to the disposal of the first appeal and hence, opportunity should be given to the petitioner who is the present owner.

4.Per contra, Mr.R.Suriyanarayanan, learned Counsel states that the petitioner is a *lis pendens* purchaser and he has no locus to challenge the judgment and decree of the First Appellate Court especially when the suit as well as the First Appeal were contested by vendors of the petitioner. Additionally, after the disposal of the First Appeal, the respondents have already alienated the property in favour of third parties namely M.Balachandran, M.Raja & M.Sangeetha, under registered sale deed dated 31.12.2024 under Document No.27 of 2025. He therefore, states that without hearing the interested parties, no further orders can be passed in favour of the petitioner.



5. I have carefully considered the submission advanced on either side.

6. Admittedly, the Second Appeal has been filed along with 530 days delay. The present application is only seeking for leave to prefer the Second Appeal, since the petitioner was not a party to the proceedings before the trial Court as well as the First Appellate Court. As narrated earlier, no doubt, the petitioner is a third party purchaser, who has not been arrayed as a party before the trial Court or before the Appellate Court. Certainly, he is a *lis pendente* purchaser. Considering the fact that suit has been filed for declaratory relief, to declare the title of the plaintiff late Subbiah, there was no occasion for the petitioner to know about the challenge to his title or his vendor's title. No doubt, as rightly contended by the learned Counsel for the respondents 3 to 8, the vendors have tested the proceedings but after the finality was reached in the First Appeal, they have not shown any interest to further prosecute the matter.

7. In the light of the above, since serious prejudice is caused to the petitioner, he must be given an opportunity to step into the shoes of his vendors namely respondents 1 and 2 and challenge the judgment and decree of the First Appellate Court. At the same time, since the contesting respondents / legal heirs of late Subbiah, the sole plaintiff in the suit have already conveyed their interest in the suit property and they are no longer title holders, Second Appeal can be decided only in the presence of the present



owners who are third parties whose details are disclosed in the counter affidavit.

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8.In the light of the above, I am inclined to grant leave to the petitioner to challenge the judgment and decree in A.S.No.103 of 2004, on the file of the learned Subordinate Judge, Uthamapalayam, confirming the judgment and decree passed in O.S.No.206 of 2000 dated 20.10.2003, on the file of the learned District Munsif Court, Uthamapalayam.

9.Accordingly, this Civil Miscellaneous Petition is allowed. Insofar as the condone delay application is concerned, the petitioner shall take steps to implead the present owners namely M.Balachandran, M.Raja & M.Sangeetha,. On hearing their objections, further orders will be passed.

27-03-2026

MR



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