



CRP(MD). No.1408 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.1408 of 2025
and CMP(MD).Nos.7235 of 2025 and 18120 of 2025**

B.Dhineshkumar

... Petitioner

Vs.

1.B.Kumaran

2.P.Dhinakaran

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and executable order in I.A.No. 1 of 2024 in O.S.No.218 of 2023, dated 12.03.2025 on the file of the learned II Additional Sub Judge, Madurai.

For Petitioner : Mr.V.Srinivasan

For Respondents : Mr.S.Raja Mohamed for R1

ORDER

This Civil Revision Petition has been filed challenging the fair and executable order in I.A.No.1 of 2024 in O.S.No.218 of 2023, dated 12.03.2025 on the file of the learned II Additional Sub Judge, Madurai.



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2. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the 1st respondent.

3. This petition has been filed by a third party who has purchased the property on 24.01.2024 by way of registered sale deed No.587/24. The respondent filed a money suit, which was decreed in his favour, and thereafter he filed an execution petition in E.P. No. 244 of 2025. The same was allowed raising an attachment. The counsel for the revision petitioner submits that along with the suit, an attachment before judgment application was filed on 19.01.2023 in I.A.No.192 of 2023. The revision petitioner, who is a third party, contended that after the attachment, which was made on 19.02.2024, the said attachment communication should have been communicated to the Registrar. But the same was not communicated as contemplated under Order 38 Rule 11 (B) of the Tamil Nadu Amendment Act. The Encumbrance dated 09.05.2024 did not reflect the attachment.

4. His primary contention is that since there is no communication from the court to the registrar office with regard to the attachment of the



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suit schedule property, nothing is reflected in the Encumbrance Certificate dated 09.05.2024. There cannot be any order against the sale deed. His next contention is that the question of transfer under Section 52 of the Transfer of Property Act will not apply in the money suit.

5. Per contra, the learned counsel appearing for the respondents submitted that he has filed the suit for recovery of money. The Attachment before judgment application was filed on 19.01.2023 and the order of attachment was made on 25.04.2024. On the same day, Amin visited the premises, and delivery was handed over on the same day.

6. The learned counsel pointed out that the registration of the sale deed had taken place on 24.01.2024. The Registration Department has not received communication with regard to the attachment. Therefore, the order passed by the execution court with regard to the attachment will not bind him.

7. The learned counsel reiterated that in view of Section 52 of the Transfer of Property Act, the transfer made by the second respondent to



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the first respondent is assured and nominal, and it is also a conclusive one. The learned counsel appearing for the revision petitioner relied upon the following judgments of this Court made in the cases of

1. **Vellapandi (died) and others Vs. K.S. Maheshwari**, reported in **2017 SCC Online Mad 20182**.
2. **Sri Krishna Chit Funds (Sattur Private Limited) Vs. R.S. Pillai and another** reported in **2000 (II) CTC 524**,
3. **Sri Humbi Hema Gooda and others Vs. Tamil Nadu State Transport Corporation** reported in **2012 (1) CTC 407** and
4. **Ammavasai Vs. Tulasikannu and another** reported in **2017 SCC Online Mad 37597**.

8. The learned counsel for the respondent to strengthen his case relied upon the judgment of the Honorable Supreme Court of India in the case of **M/s. Siddamsetty Infra Projects Pvt. Ltd. Vs. Katta Sujatha Reddy and Others**, reported in **CDJ 2024 SC 962**. This judgment deals with the sale of property during *lis pendens*, as the revision petitioner has purchased the property during the pendency. Whether the revision petitioner, who is the third party, is a *bona fide* purchaser and in the



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absence of any communication with regard to the attachment from the court to the Sub-Registrar Office on the date of the sale deed, the revision petitioner is free from encumbrance, and nothing reflects with regard to the attachment.

9. Therefore, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed. The order passed by the execution court is hereby set aside. The first respondent is at liberty to raise an attachment for recovery of money with regard to the other properties, which are available with the second respondent.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

12.02.2026

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To

1. The II Additional Sub Judge, Madurai.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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