**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF
PADMANABHAPURAM.**

**Present: Thiru.R.Karthikeyan, B.A., B.L.,(Hons.)
Principal District Munsif.**

Saturday, the 07th day of February2026

E.A.No.05 /2023

in
E.P.No.07/2021
in
O.S. No. 297 of 2013

T. Jegatha Rani … Petitioner / 3rd party

Vs.

1. A. Latha @ Pushpalatha
2. S. Merlin Nisha ..Respondents/decree holders/plaintiffs

3. R. Stephen
..Respondent/ Judgment debtor/defendant

This petition is coming before me for final hearing, in the presence of Mr.Michael Ratheesh, learned counsel for the Petitioner/ 3rd party and Mr.Balachandar, learned counsel for the Respondent R1 and R2 and Mr.Thankaraj, Learned counsel for the respondents R3. Upon hearing the both side counsel and on perusal of the records stood over for consideration till this day, this court passed the following :

ORDER

This petition is filed under order 21 Rule 58(2) of the Civil procedure Code to release the petition schedule property from attach and sale.

2. THE AVERMENTS IN THE PETITION IN BRIEF : -

I) The E.P. schedule property having an extent of 3 cents 750 sq.links in old survey NO.1255 corresponding to resurvey No.285/7 with house bearing door No.15-56 is absolutely belonging to the 3rd respondent R.Stephen. The property under a sale deed No.643 of verkilambi sub registry dated 07.04.1994. From the date of sale deed itself, 3rd respondent was in possession and enjoyment of the same and he was paid land tax and building tax to the Government. On 29.12.2014 the 3rd respondent had executed a sale deed infavour of the petitioner T.Jegatha Rani having an extent of 1 cent 875 sq.links of land with building No.15-172 in old survey No.1255 corresponding to resurvey No.285/7 under a sale deed No.248. The petitioner purchased the petition schedule property for a valid sale consideration of RS.1,03,365/-. The petitioner is paying revenue and panchayat tax from the year 2014 to till date.

ii) The petitioner have obtained a plain approval for demolishing the exiting building bearing door No.15-172 and constructed new RCC terraced roof residential building with approval No.132/2020 -2021 dated 15.12.2020. As per the sanction order with plan approval the petitioner has constructed a house over the petition schedule property. The petitioner has invested more than 10 Lakhs Rupees for the above said new house construction. On 13.06. 2023 without consent or knowledge the court amina had pasted a sale notice in the house bearing door No.15-172. The respondent have no manner of right or interest over the petition schedule property with house. The court amina has totally valued the EP schedule property having an extent of 3 cents 750 sq.links is RS.17,37,500/-. But the court has fixed the upset price of the E.P schedule property as Rs.26,00,000/-. The E.P. amount is only Rs.3,85,540/-.

iii) As per the amina report, per cent is valued at Rs.2,50,000/- already the 3rd respondent have sold 1 cent 875 sq.links with the old house therein to the petitioners. The house situated in the petition schedule property is built by the petitioner and invested a sum of Rs.10,00,000/-. The remaining 1 cent 875 sq.links of property is available at the spot and the same is valued at Rs.4,68,750/- as per the amina value. The petitioner is a bonafied purchaser for valid sale consideration without notice. The E.P schedule property has attached after purchasing the petition schedule property. Hence, this petition.

3.THE AVERMENTS IN THE COUNTER FILED BY RESPONDENTS R1 AND R2 IN BRIEF:

i) The E.P schedule property having an extent of 3 cents 750 sq.links in old Sy.NO.1255 corresponding to Re.Sy.No.285/7 with house bearing door No.15-56 is absolutely belonging to the 3rd respondent R.Stephen. Sale deed executed by the 3rd respondent infavour of the petitioner/stranger is not at all valid, genuine, and capable of transferring any right, title, possession and enjoyment of the 3rd respondent to the petitioner/stranger. The attachment order the 3rd respondent knows about the suit and the attachment order and they colluded with other to defeat the lawful claim of the 1st and 2nd respondents and made the document. The petitioner is a colluding assistant and as such she did not even pay any sale consideration with the result, is is hollow in nature. She has not title , lis pendency transaction of the alleged sale is only a fraudulent one. Petitioner is not entitled to get patta and pay the land and other taxes , if any in respect of the said property and if any documents are with her, they did not bind the 1st and 2nd respondents and schedule property in any way. It is not true that the sale consideration was received by the 3rd respondent to pay of his family debts.

ii) A portion house was repaired and maintained by the 3rd respondent only at his cost. The petitioner/stranger did not have any means to pay the alleged sale consideration if any to the contrary would only be documents to cheat these respondents . The petitioner is only an instrument at the hands of the 3rd respondent. 3rd respondent is liable to pay the maintenance continuously to these respondents and as such, the schedule property or the balance in sale proceeds in public auction alone is liable for the same. Hence, this petition is liable to be dismissed.

3. <u>THE AVERMENTS IN THE COUNTER FILED BY RESPONDENTS R3 IN BRIEF</u>:

The claim petitioner to release the petition suit schedule property from attachment and sale is not maintainable. The respondent have sold an extent of 1 cent and 875 sq.links along with the house in Re.Sy.No,285/7 to the petitioner to fulfill the family necessity. The sale deed is registered in Verkilambi Sub Registrar office through document No.2485/2014. The total extent of schedule property in the E.P.No.07/2021 is 3 cent 750 sq.links from that the respondent have no objection in releasing the schedule property in E.A.No.05/2023. Hence, this petition is liable to be dismissed.

4 . <u>POINTS FOR DETERMINATION</u> : -

Whether the petitioner is entitled to the relief as prayed for or not?

5. <u>EVIDENCES</u> :-

To prove the case, on the side of Petitioner, the petitioner examined herself as P.W.1 and Ex.P1 to Ex.P9 were marked. On the side of respondents, 1st respondents was examined as RW.1 and one Mrs.Daisy mary was examined as RW.2 and 3rd respondent was examined as RW.3 and Ex.R1 was marked through RW.1 ,

<u>The Learned petitioner's counsel submitted the following decision</u> :

1. 2015 (6) CTC 545, Padmakumari & ors Vs. Dasayyan & Ors.

2. 2024 SAR (Civ) 800, Prashant Singh & Ors Vs. Meena & Ors.

3. Civil Appeal No.5026 of 2023, Bhikchand Vs. Shamabai Dhanraj Gugale

<u>The Learned counsel of Respondents R1 and R2 submitted the following decision</u>

1)Civil appeal no 5919 of 2023 Shingara singh Vs Daljit Singh &Another 2024 INSC770

6. **<u>DISCUSSION AND ANALYSIS</u>** : -

Both side's heard. Decision relied by both counsels perused. Records Perused carefully.

i) Petitioner have filed this claim petition seeking for relief to release the petition schedule property from attachment and sale. The contention of the petitioner is that the E.P schedule property having an extent of 3 cents 750 sq.links in old survey No.1255 corresponding to resurvey No.285/7 of Veeyannoor village with house bearing door number 15-56 of Kattathurai village Panchayat is absolutely belonging to the 3rd respondent Stephen got the property under a sale deed No.643 of Verkilambi Sub Registry dated 07.04.1994. From the date of sale deed 3rd respondent was in possession and enjoyment of the same. On 29.12.2014 3rd respondent Stephen executed a sale deed infavour of this petitioner T.Jegatha Rani having an extent of 1 cent 875 sq.links of land with building No.15-172 of Kattathurai village Panchayat in old survey No.1255 under sale deed No.2485 of Verkilambi sub registry. From the date of purchase petitioner was in absolute possession and enjoyment over the same and have constructed a new house after obtaining approval on 15.12.2020. On 13.06.2023 without petitioner consent or knowledge court amina pasted the sale notice over the house bearing No.15/172 of Kattathurai village panchayat .

ii) Respondents have no manner of right or interest over the claim petition schedule property. The court amina totally valued the E.P.schedule property having an extent of 3 cents 750sq.links is

Rs.17,37,500/- but the court have fixed the upset price of the E.P.Schedule property is Rs. 26,00,000/-. The E.P. amount of Rs.3,85,540/-. Petitioner have invested a sum of Rs.10,00,000/- to construct the building over the property and prays to bring the portion of property excluding the property shown to the petitioner for attachment and sale.

iii) On the other hand respondent R1 and R2 raised strong objection to allow this petition. counter was filed R3 does not raised any objection to allow this petition and supported the petitioner's case. To prove the petitioner contention, petitioner examined herself as PW.1 and Ex.P1 to Ex.P9 were marked. Ex.P1 is a certified copy of sale deed No.2485, Ex.P2 is an online patta, Ex.P3 is an original land tax receipt, Ex.P4 is an original certificate issued by the president, Kattathurai village Panchayat, Ex.P5 is an original water bill receipt, Ex.P6 is an original electricity bill receipt, Ex.P7 is an original sanction order with plan approval, Ex.P8 is an original sale notice, Ex.P9 is an online encumbrance certificate.

iv) On perusal of above exhibits it is observed that sale deed was executed infavour of this petitioner Jegatha Rani was in the year 2014 by the 3rd respondent stephen. The land tax receipts Ex.P3 and Ex.P4 and water receipt bill Ex.P5 adduced which was obtained in the year 2023 after the institution the E.P.No.07/2021. Ex.B7 sanction approval for construction of *the house was also obtained by the petitioner in the year 2023. On the other hand 1st respondent was examined as R.W.1 and one Mrs. Daisy mary was examined as R.W.2 and 3rd respondent was examined as RW.3 and Ex.R1 and marked through RW.1. On perusal of records it is clear that suit O.S.NO. 297/2013 Was filed by the respondent R1 and R2 seeking for maintenance in the year 2013 and same was decreed infavour of respondent R1 and R2. R3 is a supporting witness of this petitioner Mrs.Jegath Rani. PW.1 itself have admitted in her cross examination that property was sold by respondent R3 to this petitioner through a sale deed No.2485 which was executed in the year 2014 dated 21.12.2014.*

v) Hence, it is clear that sale deed for the extent of 1.875 cent in Re-survey No.285/7 was executed in the year 2014 only after the institution of the suit in the year 2013, Ex.P1 was executed during the pendency of the suit. The only denial made by the claim petitioner is that property was executed through sale deed by respondent R3 infavour this claim petitioner Jegatha Rani before attachment order of the court. Petitioner have not denied the contention that sale deed was executed during the pendency of the suit.

<u>Section – 52 of Transfer Of Property Act,1882 ;</u>

During the pendency in any court having authority within the limits of India excluding the State of Jammu and Kashmir or established beyond such limits by the central Government of any suit or proceeding which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceedings so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the court and on such terms as it may impose.

Explanation :- For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence form the date of the presentation of the plaint or the institution of the proceeding in a court of competent jurisdiction and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order has been obtained or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force .

vi) By relying upon the section 52 of Transfer of Property Act 1882, a sale deed executed during the pendency of the suit is not automatically void of the litigation. Purchaser of the property is bound by the courts decree which means the date property knowing the title depends on the result of the suit preventing the seller from transferring valid title if the lose. Here in this case claim petitioner itself have admitted that sale deed was executed during the pendency of the suit, but submitted that sale was before the passing the attachment order by the court. Hence, claim petitioner is bound by the result of the litigation. It is also to be noted that sale deed was executed in the year 2014 and there after the receipts filed by claim petitioner to support their possession was obtained in the year 2022 and 2023. The plan approval for construction of the house was also obtained in the year 2020 before the filing of the E.P.No.07/2021. Though claim petitioner have submitted that claim petitioner was in possession from the date of purchaser to support the above contention no exhibits was adduced obtained from the year 2014 .

Vii) Moreover claim petitioner was very well aware of the consequence of the suit and as per section 52 Transfer property Act sale deed executed during the pendency of the suit is voidable and here in this case the suit was decreed infavour of R1 and R2 and there after E.P.07/2021 was filed and there after this claim petitioner have filed this petition in year 2023. Since, the claim petitioner have failed to support their contention by adducing reliable evidence and also failed to prove that petitioner is a bonafide purchaser. At this juncture, it is pertinent to rely upon the decision of Hon'ble Supreme court in Usha Sinha Vs. Dina Ram2008(7)SCC144 court held that the doctrine of lis pendens applies to an alienation during the pendency of the suit whether such alienees had or had no notice of the pending proceedings. The following has bee held 1 paras 18 & 23:

" 18. Before one -and-half century, in Bellamy V.Sabine [(1857)

1 De G & 566 :44 ER 842] Lord Cranworth, L.C. proclaimed that where a litigation is pending between a plaintiff and a defendant as to the right to a particular estate, the necessities of mankind require that the decision of the court in the suit shall be binding not only on the litigating parties, but also on those who derive title under them by alienations made pending the suit, whether such alienees had or had not notice of the pending proceedings. If this were not so, there could be no certainty that the litigation would ever come to an end.

23. It is thus settled law that a purchaser of suit property during the pendency of litigation has no right to resist or obstruct execution of decree passed by the competent court. The doctrine of "Lis Pendens" prohibits a party from dealing with the property which is the subject - matter of suit. "Lis pendens" itself is treated as constructive notice to a purchaser that he is bound by a decree to be entered in the pending suit. Rule 102, therefore, clarifies that there should not be resistance or obstruction by a transferee pendente lite. It declares that if the resistance is caused or obstruction is offered by a transferee pendente lite of the Judgment debtor, he cannot seek benefit of Rules 98 or 100 of order 21".

By relying upon Sanjay Verma VS. Manik Roy 2006 (13) SCC 608 was dealing with a suit for specific performance. During pendency of the suit, a temporary injunction was granted infavour of the plaintiff and different portions of the suit land were sold whereafter the purchasers applied for impleadment, which was rejected by the trial court but allowed by the high court against which special leave to appeal was filed. In the above background, this court observed the following in para 12 :

"12. The principles specified in section 52 of the TP Act are in accordance with equity, good conscience or justice because they rest upon an equitable and just foundation that it will be impossible to bring an action or suit to a successful termination if alienations are permitted to prevail. A transferee pendente lite is bound by the decree just as much as he was a party to the suit. The principle of lis pendens embodied in section 52 of the TP Act being a principle of public policy, no question of good faith or bona fide arises. The principle under lying Section 52 is that a litigating party is exempted from taking notice of a tile acquired during the pendency of the litigation. The mere pendency of a suit does not prevent one of the parties from dealing with the property constituting the subject – matter of the suit. The section only postulates a condition that the alienation will in no manner affect the rights of the other party under any decree which may be passed in the suit unless the property was alienated with the permission of the court".

The above decision of Hon'ble Apex court squarely applies to the case in hand as the sale deed was executed by R3 infavour of claim petitioner during the pendency of the suit and the apex court have clearly stated that even a bonafide purchaser is not not protected if the property was executed during the pendency of the suit and bound the outcome of the decree of the suit.Upon considering the above discussion and evidence adduced on both sides this court is inclined to dismissed this claim petition.

DECISION:

Based on the above discussion and conclusion arrived by this court, In the interest of justice petition is dismissed. No costs.

Dictated by me, typed by her in computer, corrected and pronounced by me in open court, on this 07th day of February 2026.

Principal District Munsif,
Padmanabhapuram.

Petitioners' side Witnesses :-

1.PW.1. - Mrs. Jegatha Rani

Respondents' side Witnesses :-

1.RW.1. - Mrs.Latha @ Pushpalatha

2. RW.2 - Mrs. Daisy Mary

3. RW.3 – Mr. Stephen

Petitioner's side Documents :-

1 .Ex.P.1	-	29.12.2014	-	Certified copy of sale deed
2. Ex.P.2	-	12.07.2023	-	Online patta
3. Ex.P.3	-	12.07.2023		Original land tax receipt
4. Ex.P.4	-	12.07.2023	-	Original Certificate issued by the president, Kattathurai village Panchayat.
5. Ex.P.5	-	06.03.2023	-	Original water bill receipt
6. Ex.P.6	-	10.04.2023	-	Original electricity bill receipt
7. Ex.P.7	-	15.12.2020	-	Original sanction order with plan approval
8. Ex.P.8	-	13.06.2023	-	Original sale notice.
9.Ex.P.9	-	--	-	Online encumbrance certificate

<u>Respondents' side documents</u> :-

1. Ex.R.1	-	--	-	Online encumbrance certificate

Principal District Munsif,
Padmanabhapuram.

PDMC, Padmanabhapuram.
E.A. No.05/2023 in
E.P.No.07/2021 in
O.S.No.297/2013.
Draft/Fair Order:
Dt: 07.02.2026