IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, TIRUPPUR.

Present: A.VANITHA. M.S.W., L.L.B.,

Principal District Munsif-Tiruppr

(J.O.CODE : TN01953)

Wednesday this the 12th day of November 2025

E.A.No. 151 of 2025
in
E.A.No.46 of 2020

M/s.KPK Hotel Private Limited,
Rep by its Director Mr.K.P.K.Selvaraj
… Petitioner/Third Party

VS

1. M/s.Rajshri Finance Company,
Rep.by its partner Mr.A.S.Natarajan
… Respondent/Petitioner (Judgment Creditor)

2. M.Ganesan … Respondent/Respondent/Judgment Debtor)

This petition came on 23.10.2025 for final hearing before me in the presence of Thiru.J.Anand Kumar,B.Com.,B.L., Advocate for the Petitioner/Third Party and Thiru.M.Ramakrishnan,B.Sc.,B.L., Advocate for 1st Respondent and 2nd Respondent called absent set exparte and after hearing both side arguments and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:-

ORDER

1. **This petition has been filed under Order 21 Rule 58 of CPC to allow this claim application in respect of the petitioner/third party's share in the schedule of properties and for further reliefs.**

The case of the petitioner as stated in the affidavit filed in support of this petition is as follows:-

2. **The petitioner herein is to third party to the main E.P. No.66 of 2014. Originally, the property mentioned as Item No.2 in the suit, measuring 2.36 acres in S.F. No.331/4, Velampalayam Village, belonged to the Judgment debtor as per Sale Deed No.2122/1974 dated 04.07.1974, while the attachment was made only on 23.11.2000. Subsequently, a portion of 0.55 acres from the said property was sold to Mr. S. Ramachandran under Sale Deed No.2714/1997 dated 04.11.1997, who in turn sold it to Mr. Krishan Gopal Seksaria under Sale Deed No.2177/2006 dated 13.04.2006. Thereafter, Mr. Krishan Gopal Seksaria executed a Settlement Deed in favour of Mr. Samir Seksaria under Document No.6674/2008 dated 07.07.2008, who later mortgaged the said property with Bank of India, Coimbatore Branch, by depositing the title deeds registered under Doc. Nos.1902/2012 and 2334/2014. Finally, the said portion of 0.55 acres in S.F. No.331/4T1, Velampalayam Village, was purchased by the petitioner on behalf of M/s KPK Hotels Private Limited for a consideration of ₹16,00,00,000/- through**

a sale certificate executed by Bank of India, Coimbatore Branch, registered as Document No.1081/2020 dated 26.02.2020 in the Joint II Sub-Registrar Office, Tiruppur.

3. That the property described as Item No.2 of the suit property, measuring 0.55 acres in S.F.No.331/411 of Velampalayam Village, absolutely belongs to M/s KPK Hotels Private Limited, of which the petitioner is the director, and the said property is duly mortgaged with the State Bank of India through documents registered as Doc.No.1149/2021 dated 02.03.2021, Doc.No.1587/2022 dated 24.03.2022, and Doc.No.2259/2024 dated 12.03.2024, with the MODT still subsisting. The petitioner further states that the revenue records stand in the name of KPK Hotels Private Limited and that none of the respondents or Judgment debtors have any right, title, or interest over the said property. The petitioner came to know of the present Execution Petition only through other related EP proceedings (E.P.Nos.18/2013, 19/2013, 17/2013, and 31/2007) pending before the Hon'ble Principal Subordinate Court, Tiruppur. The petitioner submits that the property, situated on the Tiruppur–Avinashi Main Road, is a prime commercial location where the petitioner runs a hotel business under the name "Fortune Park," consisting of nine floors and valued at approximately Rs.50 crores, but the same has been erroneously described as agricultural land in the Execution Petition. Hence this claim petition is filed bonafide

with a prima facie case and fair chance of success.

THE CRUX OF THE COUNTER STATEMENT IS AS FOLLOWS :

4. The petition is false, frivolous and vaxiously. The respondent/decree holder submits that the petitioner's claim regarding the chain of title from Document No.2714/1997 dated 04.11.1997 up to the alleged acquisition by M/s KPK Hotels Private Limited is irrelevant to the present execution proceedings, as all such transactions occurred after the decree holder's rights were crystallized. The decree holder had issued a demand notice to the Judgment debtor on 26.09.1997, filed the suit in O.S.No.523/1997 on 13.10.1997, and obtained an order of attachment before Judgment on 12.12.1997. Despite knowledge of the pending suit and the interim application for attachment in I.A.No.1023/1997, the judgment debtor fraudulently executed a sale deed dated 04.11.1997 in favour of his brother's partner S. Ramachandran under Document No.2714/1997, rendering the transfer void as lis pendens under Section 52 of the Transfer of Property Act. The said attachment is reflected in the Encumbrance Certificate as Document No.9/1998. All subsequent transactions are therefore void under Section 64 of the Civil Procedure Code, being contrary to the attachment. Further, similar execution petitions filed by the same petitioner in E.P.Nos.17/2013, 18/2013, 19/2013, and 31/2007 were already dismissed by the Hon'ble Principal Subordinate Court, Tirupur, after due consideration of all relevant facts and hence the petition is liable to be dismissed.

5. Heard both sides. On the side of the petitioner Ex.P1 to Ex.P6 has been marked.

POINT FOR DETERMINATION:

6. It is the case of the petitioner that the suit property measuring 2.36 acres in S.F. No.331/4, belonged to the Judgment debtor as per Sale Deed No.2122/1974 dated 04.07.1974, while the attachment was made only on 23.11.2000 and a portion of 0.55 acres from the said property was sold to Mr. S. Ramachandran under Sale Deed No.2714/1997 dated 04.11.1997, who in turn sold it to Mr. Krishan Gopal Seksaria under Sale Deed No.2177/2006 dated 13.04.2006 and thereafter Mr. Krishan Gopal Seksaria executed a Settlement Deed in favour of Mr. Samir Seksaria vide Document No.6674/2008 dated 07.07.2008, who later mortgaged the said property with Bank of India, Coimbatore Branch, by depositing the title deeds registered under Doc. Nos.1902/2012 and 2334/2014. Finally, the said portion of 0.55 acres in S.F. No.331/4T1, Velampalayam Village, was purchased by the petitioner on behalf of M/s KPK Hotels Private Limited for a consideration of ₹16,00,00,000/- through a sale certificate executed by Bank of India, Coimbatore Branch, registered as Document No.1081/2020 dated 26.02.2020 in the Joint II Sub-Registrar Office, Tiruppur.

7. Further plea of the petitioner is that the property, measuring 0.55 acres in S.F.No.331/411 belongs to M/s KPK Hotels Private Limited and

the petitioner is running a business under the name "Fortune Park," consisting of nine floors and valued at approximately Rs.50 crores, but the same has been erroneously described as agricultural land in the Execution Petition and constrained to file the application.

8. On the other hand the respondent comes with a contention that the petitioner's claim regarding the title from Document No.2714/1997 dated 04.11.1997 for claiming right by M/s KPK Hotels Private Limited is irrelevant to the present execution proceedings. And further contention is that decree holder had issued a demand notice to the judgment debtor on 26.09.1997 and filed the suit in O.S.No.523/1997 on 13.10.1997, and obtained an order of attachment before judgment on 12.12.1997. During the pendancy of the suit the Judgment debtor fraudulently executed a sale deed dated 04.11.1997 in favour of his brother's partner S. Ramachandran under Document No.2714/1997, rendering the transfer void as lis pendens under Section 52 of the Transfer of Property Act and all such attachment is reflected in the Encumbrance Certificate as Document No.9/1998 and all subsequent transactions are therefore void under Section 64 of the Civil Procedure Code and sought for dismissal of the suit.

9. It is pointed out that on look into the provision of Order 21 Rule 58 of CPC is extracted herein:

"58.Adjudication of claims to, or objections to attachment of, property.-

. *(1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to adjudicate upon the claim or objection in accordance with the provisions herein contained:*

. *Provided that no such claim or objection shall be entertained-*

- *a)where, before the claim is preferred or objection is made, the property attached has already been sold; or*
- *b)where the Court considers that the claim or objection was designedly or unnecessarily delayed.*
- *(2)All questions (including questions relating to right, title or interest in the property attached) arising between the parties to a proceeding or their representatives under this rule and relevant to the adjudication of the claim or objection, shall be determined by the Court dealing with the claim or objection and not by a separate suit.*
- *(3)Upon the determination of the questions referred to in sub-rule (2), the Court shall, in accordance with such determination,-*
- *a)allow the claim or objection and release the property from attachment either wholly or to such extent as it thinks fit; or*
- *b)disallow the claim or objection; or*
- *c)continue the attachment subject to any mortgage, charge or other interest in favour of any person; or*

- ***d)pass such order as in the circumstances of the case it deems fit.***

- ***(4)Where any claim or objection has been adjudicated upon under this rule, the order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.***

- ***(5)Where a claim or an objection is preferred and the Court, under the proviso to sub-rule (1), refuses to entertain it, the party against whom such order is made may institute a suit to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, an order so refusing to entertain the claim or objection shall be conclusive."***

- ***16.Sub Rule (1) of Order 21 Rule 58 CPC prescribes the mode of adjudication on objections made to "attachment of properties" or "attachment of a property in execution of a decree".***

10. This purchase done by the 3rd party can be valid only if the purchase was done prior to the institution of the suit and when a transfer is made after the institution of the suit and moreover, after an attachment with regard to the petition mentioned property has already been made.

11. Admittedly in this case, all the transactions mentioned in the petition which pertain to the claim of the petitioner M/s.KPK Hotels are all of the year 1997, 2006, 2008 etc., On looking into the documents on record it clearly revealed that the petition mentioned property was attached by the Hon'ble Sub

Court, Tiruppur on 12-12-1998 and the Judgment Debtor has made a sale transaction with regard to the property after the filing of the suit only. It is pointed out that the attachment is made in the year 1998 and the sale which is purportedly claimed to have been a bonafide sale is of the year 2006 which is clearly hit by Doctrine of lis-pendens under Sections 52 of the Transfer of Property Act.

12. It is further pointed out that The Hon’ble Apex court in a Judgment reported in (2004) 2 SCC 601 (Rajkumar Vs. Sardari lal and other), while considering the scope of sec 52 of the Transfer of Property Act in paragraph no.5 has held that

> ***“5. The doctrine of lis pendens expressed in the maxim 'ut lite Pendente nihil innovetur' (during a litigation nothing new should be introduced) has been statutorily incorporated in Section 52 of the Transfer of Property Act 1882. A defendant cannot, by alienating property during the pendency of litigation, venture into depriving the successful plaintiff of the fruits of the decree. The transferee pendente lite is treated in the eye of law as a representative-in-interest of the judgment-debtor and held bound by the decree passed against the judgment-debtor though neither the defendant has chosen to bring the transferee on record by apprising his opponent and the Court of the***

transfer made by him nor the transferee has chosen to come on record by taking recourse 15/21 C.M.S.A.(MD).No.4 of 2020 to Order 22 Rule 10 of the CPC. In case of an assignment creation or devolution of any interest during the pendency of any suit. Order 22 Rule 10 of the CPC confers a discretion on the Court hearing the suit to grant leave for the person in our upon whom such interest has come to vest or devolve to be brought on record. Bringing of a lis pendens transferee on record is not as of right but in the discretion of the Court. Though not brought on record the lis pendens transferee remains bound by the decree."

question of good faith or bona fide arises . ..."

13. Hence, in view of the Judgment of Hon'ble Supreme Court, it is clearly apparent that plea of the bonafide purchaser or good faith cannot be a pendent lite purchaser and the object of Section 52 of the Transfer of Property Act derived by a Pendent Lite Transferee is subordinate to the decree only. Hence, it is also clear that the judgment debtor of the suit cannot assert any title or interest, which is adverse to the rights acquired by an other party namely the decree holder under a decree in the suit. The doctrine of lis-pendens always prevails over the doctrine of bonafide purchaser for valuable considerations.

14. Therefore this court concludes that the purchase done by the 3rd

party can be valid only if the purchase was done prior to the institution of the suit and when a transfer is made after the institution of the suit and moreover, after an attachment with regard to the petition mentioned property has already been made, it is clearly against the scope of Section 52 of Transfer of Property Act since the petitioner has purchased the property after filing of the suit. The cannot take any defense as a bonafide purchaser since he is a pendent lite purchaser from the Judgment debtor and this court is of view that the petition is out of merits and scope and this court is not inclined to allow the petition.

ORDER

1.	As a result, this petition is dismissed.
2.	There is no order for costs.

Dictated to the steno-typist directly, typed by her in computer, corrected and pronounced by me in open court, this the 12th day of November 2025.

VANITHA Digitally signed by VANITHA Date: 2025.11.12 11:06:49 +1100

Principal District Munsif,
Tiruppur.

Witness and on the side of the Petitioner : NIL

Documents on the side of the Petitioner :

Ex.P1.	**04.11.1997**	**Sale Deed Vide Document No. 2714/1997**	**Certified Copy**
Ex.P2.	**07.07.2008**	**Settlement Deed Document No.6674/2008**	**Certified Copy**
Ex.P3.	**08.05.2012**	**Memorandum of deposit of title deed Document No. 1902/2012**	**Certified Copy**
Ex.P4.	**26.02.2020**	**Sale Certificate Document No. 1081/2020**	**Certified Copy**
Ex.P5.	**12.04.2024**	**Memorandum of deposit of title deed Document No. 2259/2024**	**Certified Copy**
Ex.P6	**06.06.2024**	**Encumbrance Certificate for the period of 01.01.1975 to 04.06.2024**	**Certified Copy**

Witness and documents on the side of the Respondent : NIL

VANITHA Digitally signed by VANITHA Date: 2025.11.12 11:06:56 +1100

Principal District Munsif,
Tiruppur.