IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE, THANJAVUR.

Present :Tmt. A. Malarvizhi, M.L.,
II Additional District & Sessions Judge,
Thanjavur.

Tuesday the 29th day of August 2023
(Thiruvalluvar Aandu 2054- Aani Matham 12th day)

E.A. No. 18/2023 in E.P. No.3/2018 O.S. No.88/2015

Katturaja ....**Petitioner/Obstructor**

/Vs/

(1) R. Mathiyazhagan .....**Respondent/Decree Holder**

(2) Ayeekannu

(3) Manikonar

(4) Govindharaj ....**Respondents/Defendants**

This petition having come up for final hearing before me on **17.8.2023** in the presence of Thiru**.A.Jegan,** Advocate for the Petitioner/obstructor, Thiru. **C. Saravanan,** Advocate for the respondent/decree holder and upon hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

(1) The petitioner/obstructor filed this petition under order 21 rule 97 of C.P.C to set aside the order for auction sale of the immovable property.

(2) Heard both sides. Records perused. The petitioner counsel argued that this petitioner entitled to share in the survey Nos. 137/12 & 137/13 as a legal heir of Muthaiya Konar whose father Karuppusamy was the original

owner of that properties. The respondent/decree holder and the respondent/judgement debtor filed a suit in O.S. No.88/2015 by suppressing the previous suits with intend to grab the property without knowledge of this petitioner and other legal heirs of Karuppusamy. Therefore, the decree passed in O.S.No. 88/2015 is not valid. The respondent/Judgment debtor has no right in this suit survey No.137/12, 137/13. This petitioner/obstructor is in possession and enjoyment of this survey numbers. Therefore, that the petitioner prayed that he may be added as a party, set aside the order for auction sale and declared that the petitioner/obstructor is the owner of those properties.

(3) The respondent/Decree Holder's counsel argued that the respondent/decree holder filed the execution petition for attachment and sale of immovable properties comprising 17 items. The obstructor has filed this objection petition with respect to only two items out of 17 items and he has not made any objections for remaining items. The remaining 15 items of properties has to be come under the court auction with absolutely necessary, then only the respondent will enjoy the fruits of the decree. Already the respondent/decree holder filed an application to reduce the upset price in respect of 137/11, 137/8A, 137/10, 137/12 and 131/13. This court reduce the upset price for a sum of Rs.20,00,000/-. Now, this petitioner/obstructor has filed an objection petition in respect of 2 items. So, it is necessary to reduce the upset price from Rs.20,00,000/- So the petition is to be dismissed with

the exemplary costs of the 1st respondent.

(4) Both side arguments and records considered. It is correct as argued by the respondent/Decree holder that, the obstructor object to auction sale with respect only 2 survey numbers that is 137/12 & 137/13. The petitioner has not stated anything about the remaining 15 itmes of the petition property. Therefore, this court accepts the prayer of the respondent that except those 2 survey numbers, other property can be sold in court auction for executing the decree. Hence, this court inclines to exempt the Veeramarasampettai Village survey No.137/12, 137/13 from the court auction sale and partly allowed this petition with respect to survey numbers 137/12 and 137/13.

In the result, this petition is partly allowed and order for auction sale only with respect to Veeramarasampettai Village survey No. 137/12, 137/13 is set aside.

Dictated to Steno-Typist directly, typed by her, corrected and pronounced by me in the open court, this the **29th day of August 2023.**

Digitally signed by
A MALARVIZHI

II Additional District & Sessions Judge,
Thanjavur.

Petitioners and Respondents side
Exhibits and Witnesses : Nil

Digitally signed by
A MALARVIZHI

II Additional District & Sessions Judge,
Thanjavur.

Order

E.A. No.18/2023 in E.P.No.3/2023 in

O.S.No: 88/2015

Dated: 29.8.2023