

This petition is filed by the petitioner/Decree Holder Under Section Order 21 Rule 72 and Section 151 of CPC seeking leave of this court to Bid in Sale through which he sought for permission to Set off the decree amount.

2. BRIEF AVERMENTS OF THE PETITION:-

The petition is the Decree Holder in the execution petition. A Preliminary decree for mortgage has been passed on 17.04.2021 and in pursuance of Final decree proceedings, Final decree dated.20.04.2022 also came to be passed in I.A.No.1/2021. Since the Respondent/ Respondent/ Judgment debtor failed to pay the amount as ordered by this court in final decree petition, the petitioner filed the main Execution Petition to execute the award passed in his favour in the year of 2023. Thereafter the sale notice issued to the respondent. Even after service of sale notice the respondent not paid any amount. Therefore, property brought to auction and subsequently, auction was conducted on 13.06.2025 by fixing the bid amount of Rs.20,00,000/- in respect of “B” schedule property. The property in question is an Apartment unit and the building is over 12 years old. Since it has become an old house, there are damages and peeling in various places, along with leakages. Additionally, because the property is located deep inside a street within the city, two four wheelers cannot pass each other simultaneously if they come from opposite directions. Moreover, there is no dedicated parking space in the said apartment, for which, the proposed auction price is too high and hence, no one came forward to bid for the property at the auction. Under these circumstances,

there is no other option, the petitioner seeking leave of this court to Bid in Sale through which he sought for permission to Set off the decree amount.

3. BRIEF AVERMENTS OF COUNTER:-

This petition is not maintainable either in law or on facts and the same is liable to be dismissed in limine. The Proposed auction price fixed is not correct and the actual value of the property is Rs.25 lakhs. The Respondent/Respondent/Defendant already paid Principal amount and only the interest with costs amount alone has to be payable by the respondent and even if this court granted three weeks further time, the respondent would pay the said amount. Instead this petition is allowed, it would be caused prejudice to the respondent. Therefore the petition has to be dismissed.

4. POINT FOR CONSIDERATION:-

Whether this petition has to be allowed or not?

5. POINT:-

This petition is filed seeking leave of the court to Bid and set off the decree amount by way of participating in the auction sale of schedule property ordered to be conducted by this court. The petitioner is the decree holder and the main EP is filed for recovery of a sum of Rs.21,36,520/- with further interest by way of sale of the mortgaged property. After

settlement of proclamation the property was ordered to be proclaim and sold, but however, the property was not sold due to the huge upset price. Accordingly, the upset price has been periodically reduced and finally the upset price was fixed at Rs.20 lakhs for the “B” Schedule property. There are two schedule of properties and the upset price was fixed for both properties. The upset price for “A” schedule property was fixed at Rs.1,50,00,000/- and the “B” schedule property was initially fixed at Rs.40 lakhs and thereafter periodically reduced to the final upset price of Rs.20 lakhs. It is pertinent to note that, the “B” schedule property alone was ordered to be proclaimed and sell as the value of the “B” schedule property alone is sufficient to satisfy the decree amount. The contention of the petitioner is that, since the “B” schedule property is old property and in dilapidated position and situated in a street in which two four wheelers cannot be negotiated at the same time and also it has no parking facility, nobody is coming forwarded to bid the property in the public auction and as such he himself may be permitted to bid and set off the decree amount. The respondent filed a counter stating that, he had settled the entire principal amount and only the cost and interest alone is due and payable to the decree holder and he could settle the amount within three weeks and

record full satisfaction. The said counter was filed by the respondent/Judgment debtor as early as on 20.08.2025 itself but even after lapse of almost 6 months, till date, the respondent/Judgment debtor has not reported settlement of the amount to the decree holder and recording of full satisfaction. The upset price was reduced from 40 lakhs to 20 lakhs, but inspite of that, there were no bidders for the last four auction sales conducted by this court. It seems that, the reason stated by the petitioner in the petition are bonafide reasons and that is why the property could not be sold in a auction sale. It is not denied by the respondent that, the building is old building, in a dilapidated condition and has no free access for the four wheelers. Under such circumstances, there is no use of keeping on proclaim and sell the property as there are no bidders available to bid for the amount fixed as upset price. If the decree holder himself is permitted to take part in the auction sale, he could bid for the upset price so that the amount could be adjusted towards the decree amount. Therefore I found some substance in the contention of the petitioner/Decree holder and accordingly I am inclined to allow this petition permitting the petitioner/Decree holder to bid and set off and this point is answered accordingly.

In the result, this petition is allowed. No costs.

The order is dictated to my Steno-grapher for typed dictation, typed by her in computer, corrected and pronounced by me in the Open Court on this 09th day of February 2026.

PRINCIPAL DISTRICT JUDGE,
TIRUNELVELI.

Both sides witnesses and documents:- NIL.

PRINCIPAL DISTRICT JUDGE,
TIRUNELVELI.

Principal District Court,

Tirunelveli

Draft / Fair Order

E.A.No.8/2025 in

E.P.No.195/2023 in

O.S.No.7/2021

Dt :- 09.02.2026