



WEB COPY

CRP No. 1223 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1223 of 2026

AND

CRP No. 1224 of 2026

B.Prabavathy
D/o.K.Bakthavatchalam,
No.3, Ashok Nagar Main Road, Kodambakkam,
Chennai 600 024.

..Petitioner(s)

Vs

1.P.Virendramal Jain
S/o.Parasmal Jain,
No.18, 21st Avenue,
Ashok Nagar,
Chennai 600 083
2.Alwin and Company
No.260/204,
Thambu Chetty Street
1st Floor, Chennai 600 001.

3.The Sub Registrar
Ashok Nagar Sub Registration Office,
Chennai 600 083.

4.Mr. Narendra Harlalka
S/o. Devkinandan Harlalka, Triveni House,
Ad-18/11, 5th Street, 10th Main Road, Anna
Nagar, Chennai 600 040, (auction Purchaser)
Impleaded As Suomotu Vide Order Of Court Dt
25/03/2026 In Crp.1223 And 1224/2026 (tvtsj)

..Respondent(s)

**CRP No. 1223 of 2026**

WEB COPY

To set aside the non-draftable docket order, dated 25-09-2025 made in IA No.6 of 2025 in OS NO.2671 of 2025 on the file of the XVII Additional City Civil Court, Chennai and consequently restore IA No.6 of 2025 on the file of the XVII Additional City Civil Court, Chennai.

CRP No. 1224 of 2026

To set aside the non-draftable docket order, dated 25-09-2025 made in IA No.5 of 2025 in OS No.2671 of 2025 on the file of the XVII Additional City Civil Court, Chennai and consequently restore IA No.5 of 2025 on the file of the XVII Additional City Civil Court, Chennai.

CRP No. 1223 of 2026

For Petitioner(s): Mr.R.Munuswamy

For Respondent(s): Mr.T.T.Ravichandran
for Mr.M.Santhanaraman for R1
R2 - Door locked
Ms.D.Kalaivani for R4
Ms.A.Anandan Government Advocate for R3

COMMON ORDER

Both Civil Revision Petitions have been filed seeking to restore I.A Nos.5 and 6 of 2025 in O.S. No.2671 of 2025 on the file of the XVII Additional City



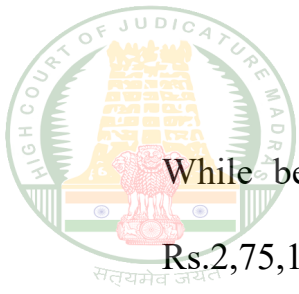
Civil Court, Chennai, by way of challenging the impugned docket orders, dated 25.09.2025 passed therein.

WEB COPY

2. The Revision petitioner is the plaintiff, the Respondents 1 to 3 are the defendants 1 to 3 in the main suit, and the 4th respondent herein is the auction purchaser who has impleaded as suo moto by this Court. For the sake of convenience, the parties are referred to as per the rank cited in the Trial Court. In the Trial Court, 1st defendant alone contested the case while others remain exparte.

3. The brief facts of the case is as follows:

The plaintiff being the owner of the suit schedule property, borrowed the loan amount of Rs.80,00,000/- from the 1st defendant at the rate of interest 30% p.a. for which he mortgaged his suit schedule property by virtue of mortgage deed dated 08.08.2016 in favour of the 1st defendant, who is the mortgagee. The plaintiff paid the interest @ 30% p.a. ie. Rs.2,00,000/-, to the 1st defendant regularly and he also paid Rs.1,00,000/- towards Principal amount. In the meanwhile, he paid a lumps amount of Rs.20,00,000/- towards the repayment of principal amount to the 1st defendant. But, the 1st defendant failed to credit the aforesaid amount properly and not issued any receipts for the repayment amount. Hence, the plaintiff sought for the statement of accounts from the 1st defendant. However, the 1st defendant did not furnish the same.



While being so, he issued a notice on 19.12.2024 claiming for a sum of Rs.2,75,10,553/- along with future interest @18% p.a. from the plaintiff and also took steps to bring the suit property for public auction to sell the same for meagre amount. Accordingly, the auction was scheduled on 14.05.2025 undervaluing the suit schedule property. Hence, he filed the suit in O.S. No.2671 of 2025 on the file of XVII Additional City Civil Court, Chennai seeking for the relief of redemption of mortgage and also permanent injunction as against the defendants in respect of the schedule property and also filed interlocutory applications in I.A. Nos.5 & 6 of 2025 seeking the relief of interim injunction from selling the suit property by way of public auction and also injunction not to disturb the peaceful possession of the plaintiff as against the defendants in respect of the suit property. The relief sought in I.A. Nos.5 & 6 of 2025 was granted by order dated 29.07.2025 on condition that the plaintiff shall deposit a sum of Rs.5 Lacs each in I.A. Nos.5 and 6 of 2025 before the Trial Court on or before 28.08.2025. However, as the plaintiff could not pay the said amount in the stipulated period, the aforesaid interlocutory applications were dismissed on 25.09.2025 based upon the memo filed by the 1st defendant for non-compliance of the conditional order passed by the Trial Court. Hence, the plaintiff has filed the present both Civil Revision Petitions before this Court seeking the relief as prayed for.



4. The learned counsel for the petitioner would submit that the petitioner/plaintiff has paid Rs.2,00,000/- per month as interest and Rs.1,00,000/- towards principal amount and a lumps amount of Rs.20,00,000/- towards principal amount. However, the 1st respondent/1st defendant has not credited the aforesaid amount in the mortgage amount and not given any receipt for the aforesaid payment made by the petitioner. Therefore, he sought for the statement of accounts from the 1st respondent in respect of repayment. While the issue is also cast upon the 1st respondent to produce those documents, the 1st respondent claims for a sum of Rs.2,81,43,000/- from the petitioner, without the proper receipts and statement of accounts. Having considered the facts and circumstances of the case and also considering the averments with regard to repayment of loan amount can be verified, the Trial Court allowed the interim applications in I.A. Nos. 5 & 6 of 2025 on condition of payment of Rs.5,00,000/- in each application to pay on or before 28.08.2025. Such being the case, thereafter, based upon the memo filed by the 1st respondent, the Trial Court dismissed the aforesaid applications by order dated 25.09.2025 holding that *“Memo filed stating that the conditional order passed in this IA is not complied. Hence, this IA stands dismissed.”*

5. It has been further submitted that in order to comply the aforesaid conditional order, the petitioner/plaintiff took a Demand Draft for Rs.10,00,000/- in favour of the 1st respondent. Due to financial crises, the



petitioner was not able to comply the conditional order immediately, she took steps to get extension of time to comply with the conditional order by filing the

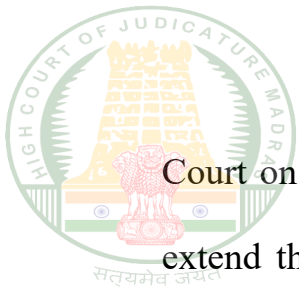
application. However, she came to know that on 25.09.2025, the said applications were dismissed by the Trial Judge based on the memo filed by the 1st respondent, despite she was inclined to comply with the conditional order passed by the Trial Court. However, the Trial Court merely based upon the memo filed by the 1st respondent, dismissed the aforesaid interim applications. The petitioner being helpless woman, has taken all steps for redemption of the suit schedule property. However, the 1st respondent with the mala-fide intention to grab the suit schedule property in a meagre amount, filed the memo before the Trail Court and made to dismiss the aforesaid applications on 25.09.2025. In this regard, neither the 1st respondent nor the Trial Court has issued any notice to the petitioner before dismissing the aforesaid applications by order dated 25.09.2025. Thereafter, the suit property was auctioned and sold to the third party on 20.11.2025 without giving any notice to the petitioner which is violation of the principles of natural justice. Hence, the order dated 25.09.2025 passed by the Trial Court is liable to be set aside.

6. The learned counsel for the petitioner would further submit that while the petitioner being helpless woman was facing financial crises at that time, she was unable to comply the conditional order passed by the Trial Court, she filed the application in I.A. No.9 of 2025 seeking for extension of time to comply



with the conditional order passed by the Trial Court. Whereas, the Trial Court dismissed the applications in I.A. No.5 and 6 of 2025 by order dated 25.09.2025 based on the memo filed by the 1st respondent without giving notice to the petitioner either by the 1st respondent or by the Trial Court before passing the dismissal order. Further, the auction proceedings have been conducted without the knowledge of the petitioner and the suit property was sold on public auction on 27.11.2025 pending the suit proceedings filed by the petitioner/plaintiff. Hence, the order dated 25.09.2025 passed by the Trial court is a violation of the principles of natural justice and unsustainable in law. Since the Trial court has committed a grave error in passing the dismissal order without considering the aforesaid facts and circumstances of the case, he prays to set aside the non-draftable docket order dated 25.09.2025 passed by the Trial Court.

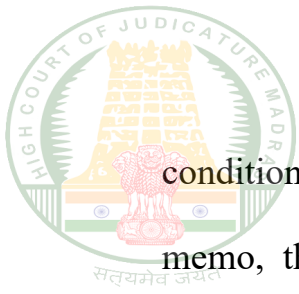
7. The learned counsel for the 1st respondent would submit that the petitioner/plaintiff has already filed the suit in O.S. No.1690 of 2025 on the file of the XIV Assistant City Civil Court, Chennai seeking for bare injunction against the defendants in respect of the same property when the auction was proposed on 19.03.2025 and obtained interim injunction by order dated 17.03.2025 in I.A. No.2 of 2025 in O.S. No.1690 of 2025 with the condition to pay Rs.10,00,000/- directly to the 1st defendant/1st respondent herein on or before 19.03.2025. As the said conditional order was not complied with by the petitioner within the stipulated period, the same was reported before the Trial



Court on 01.04.2025. Hence, the Trial Court after recording the same, did not extend the interim order and posted the case on 04.06.2025. Therefore, fresh auction was fixed on 14.05.2025. Suppressing the aforesaid entire facts, the petitioner/plaintiff filed the present suit in O.S. No.2671 of 2025 before the XVII Additional City Civil Court and also violated the conditions pertaining to the mortgage.

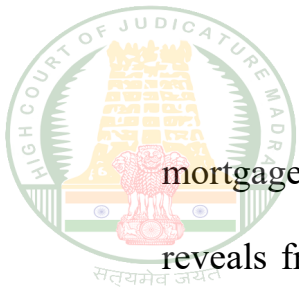
8. It has been further submitted by the learned counsel for the 1st respondent that the 1st respondent has not made unlawful attempt to take possession of the suit property as stated by the petitioner. Further, states that the subject mortgage is a registered simple mortgage and the terms and conditions were agreed between the parties. Despite the 1st respondent made request to repay the loan amount, the petitioner did not make payments nor clear the mortgage as agreed. In this regard, the legal notice was issued in the year of 2021. As the petitioner failed to make the payment, the 1st respondent was forced to bring the suit property for auction by invoking Section 69 of the Transfer of Property Act. As on date, the petitioner is liable to pay Rs.2,81,43,133/- to the 1st respondent.

9. The learned counsel for the 1st respondent would further submit that as the petitioner has not complied with the conditional order dated 29.07.2025 passed by the Trial Court, a memo was filed before the Trial Court stating that



conditional order was not complied by the petitioner. Based upon the aforesaid memo, the Trial Court dismissed the said interim applications filed by the petitioner. Further, he would submit that the suit property was already auctioned on 27.11.2025 and as already auction process was commenced, the revision petitions are not maintainable and liable to be dismissed. In support of his arguments, he relied on the Judgment passed by the Supreme Court in the case of *“Allokam Peddabbayya and another Vs. Allahabad Bank and others”* wherein it is observed that the right of the plaintiff after the auction of the property was extinguished. Hence, prayed that there is no need to interfere with the order passed by the Trial Court.

10. On perusal of the records, it is admitted fact that the petitioner/plaintiff filed the interlocutory applications in I.A.Nos.5 and 6 of 2025 seeking for interim injunction against the 1st respondent/defendant not to bring the suit schedule property for sale by way of public auction on 14.05.2025 or any other date till the disposal of the suit and also not to cause any interference with the plaintiff's peaceful possession and enjoyment of the suit property till the disposal of the suit. Admittedly, the present suit in O.S. No.2671 of 2025 filed by the plaintiff/petitioner herein seeking for redemption of mortgage dated 08.08.2016 in which the 1st defendant/1st respondent entered appearance through his counsel to contest the case. The defendants 1 and 2 are very well aware that the subject of the issue in the suit is redemption of



mortgage and it is pending before the Trial Court for final disposal. It also reveals from the records that the 1st respondent/1st defendant is not taking any

steps to recover the amount through Court of law from the date of default of repayment. Though the notice was issued only in the year of 2021, he was not taken any steps to recover the loan amount from the petitioner/plaintiff by due process of law and directly initiated auction proceedings. The public auction notice was issued on the 2nd defendant on 04.02.2025 which is also under challenge by the petitioner/plaintiff in the present suit. Under such circumstances, the petitioner/plaintiff filed the interim applications in I.A. Nos.5 and 6 of 2025, not to bring the suit property into auction till the disposal of the suit. The Trial Court also granted interim injunction by allowing both applications on condition of payment of Rs.5,00,000/- each by fixing the scheduled period. Since the petitioner/plaintiff is entitled to such a relief having considering the facts and circumstances, the interim relief was granted in favour of the petitioner/plaintiff. As the petitioner/plaintiff was under financial crises and not able to comply with the aforesaid conditional order, she took steps to get extension of time in filing the application in I.A. No.9 of 2025. In the meanwhile, the 1st respondent/1st defendant filed a memo before the Trial Court on 05.09.2025 stating that the petitioner has not complied the conditional order passed by the Trial Court. Based on which, the Trial court dismissed the aforesaid applications by order dated 25.09.2025. Admittedly, in that memo, no notice was served either by the 1st defendant or by the Trial Court, to the



petitioner. Further, the docket order dated 25.09.2025 of the Trial Court reflects that no specific date was fixed to pay the conditional amount. After the dismissal of the said applications, the 1st respondent/1st defendant initiated auction proceedings immediately and also participated in the suit proceedings on 27.11.2025 wherein it has been submitted that the property belonged to the plaintiff was sold in the public auction proceedings by colluding with auction purchaser being close associate of the 1st defendant. Under such circumstances, this Court has impleaded the auction purchaser by suo moto as the 4th respondent in the present Civil Revision Petition who is the auction purchaser of the property pending the suit proceedings.

11. It is admitted fact that when the petitioner/plaintiff approached the Court seeking the relief for redemption of mortgage, the 1st defendant auctioned the suit property without the knowledge of the petitioner/plaintiff and sold the same to the 4th respondent through the public auction, having known the suit proceedings is pending for final disposal, which reflects that they were having mala-fide intention to grab the suit property belongs to the petitioner/plaintiff. Further, there is no proof that they have issued notice to the petitioner/plaintiff with regard to the auction proceedings which shows their bad behavior and mala-fide intention in grabbing the suit property from the petitioner/plaintiff.



12. In view of the above, till the completion of the suit proceedings, the 4th respondent is hereby restrained not to make any further encumbrance and to alienate the suit property to any other party, further, as on date, as the petitioner is in the possession and enjoyment of the property, therefore, not to disturb her till the disposal of main suit. Further, the 1st respondent has relied on the Judgment passed by the Supreme Court in the case of “*Allokam Peddabbayya and another Vs. Allahabad Bank and others*” wherein the right of the plaintiff after the auction of the property was extinguished. But, the issue laid on the said case is not applicable to the facts of the present case for the reasons that pending the redemption of mortgage suit, the defendants 1 and 2 have colluded together and created the auction proceedings through sham and nominal document transferred the suit property belonged to the plaintiff to the 4th respondent herein who is the auction purchaser also close associates to the 1st defendant.

13. Having considered the facts and circumstances of the case, this Court feels that the Trial Court has dismissed the applications in I.A. No.5 and 6 of 2025 without hearing on the side of the petitioner/plaintiff nor serving any notice to the petitioner/plaintiff without which the suit property was auctioned to the 4th respondent herein which is a clear violation of the principle of natural justice and unsustainable in law. Hence, this Court set aside the order the non-draftable order dated 25.09.2025 made in I.A. No.6 and 7 of 2025 passed in O.S. No.2671 of 2025 and consequently, restore the same on the file of the



XVII Additional City Civil Court, Chennai. Till the disposal of the suit, the 4th respondent herein is directed not make any encumbrance or alienation, also not to cause any interference in the enjoyment of the suit property by the plaintiff and her family.

14. In the result, the Civil Revision Petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

28-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Lbm



WEB COPY

CRP No. 1223 of 2



T.V.THAMILSELVI J.

Lbm

To:

1.P.Virendramal Jain
S/o.Parasmal Jain,
No.18, 21st Avenue,
Ashok Nagar, Chennai 600 083.

2.Alwin and Company
No.260/204,
Thambu Chetty Street,
1st Floor, Chennai 600 001.

3.The Sub Registrar
Ashok Nagar Sub Registration Office,
Chennai 600 083.

4.Mr. Narendra Harlalka
S/o. Devkinandan Harlalka, Triveni House,
Ad-18/11, 5th Street, 10th Main Road, Anna
Nagar, Chennai 600 040,

5. The XVII Additional City Civil Court, Chennai

CRP No. 1223 of 2026
AND
CRP No. 1224 of 2026

28-04-2026