



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No.2172 of 2026
& CMP.No.9476 of 2026
& CMP.No.19974 of 2026**

R.K.Udhayasankar

..Petitioner in both
petitions

Vs

1.Sriram Chits Tamilnadu Private Limited,
Represented its Boorman, D.No.60/29D,
Bhuvaneshvari Complex,
Dr.Sankaran Road,
Namakkal Town and Taluk.

2.S.Kathiravan
3.Balaji
4.M.Kavitha

..Respondents in both
petitions

[R4 impleaded *suo motu* as 4th respondent
vide order dated 05.06.2026 in
CRP.No.2172 of 2026]

Prayer in CRP.No.2172 of 2026: Civil Revision petition filed under Article 227 of the Constitution of India, to set aside the 20.09.2025 passed in REA.No.6 of 2025 in REA.No.4 of 2025 in REP.No.67 of 2018 on the file of the Additional Subordinate Court, Namakkal.

Prayer in CMP.No.19974 of 2026: Civil Miscellaneous Petition filed under Order XLI Rule 2 of CPC, to permit the petitioner to raise additional grounds as detailed hereunder in the above CRP.



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For Petitioner:

Mr.C.Jagadish

For Respondents:

Mr.Aadarsh Subramanian for R1

Mr.Manojkumar.N for R3

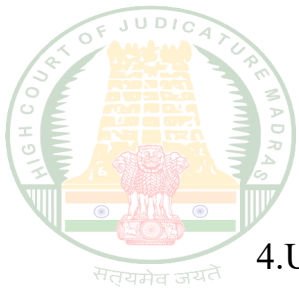
Mr.Athiban Vijay for R4

COMMON ORDER

The revision petitioner challenges the dismissal of an application filed under Order XXI Rule 97 of CPC, seeking to obstruct the execution of the decree against the revision petitioner. The 1st respondent is the decree holder who has brought the property for sale and the 3rd respondent is the successful purchaser in the said auction sale. The auction purchaser has immediately transferred the property by way of sale in favour of the 4th respondent, who has also been impleaded in the revision petition.

2.I have heard the learned counsel for the parties.

3.The learned counsel for the petitioner would submit that the Executing Court, without even conducting a proper enquiry as mandated under Order XXI Rule 97 of CPC, has proceeded to non suit the petitioner, on the only ground that the application ought to have been filed under Order XXI Rule 58 of CPC and not under Order XXI Rule 97 of CPC. A reading of the said order also indicates the same.



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4.Unfortunately, it is not a case where any attachment is sought to be raised, invoking the power under Order XXI Rule 58 of CPC. Admittedly, the auction purchaser having purchased the property, has proceeded to take delivery of possession and in such circumstances, the application filed under Order XXI Rule 97 of CPC was the only proper course of action to resist the delivery of possession in favour of the auction purchaser. Unfortunately, the Additional Subordinate Court, Namakkal, without even ordering notice on the said application, has referred to Order XXI Rule 58 of CPC and held that the petition filed under Order XXI Rule 97 of CPC is not maintainable. Having numbered the application in REA.No.6 of 2025, the Executing Court ought to have ordered notice to the respondents and thereafter, conducted due enquiry, in terms of Order XXI Rule 101 of CPC. The said exercise has not been done in the present case.

5.In the interregnum period, this Court has been appraised of the subsequent developments, namely the 3rd respondent alienating the subject property in favour of the 4th respondent. In the light of the above, the 4th respondent shall be impleaded in the Order XXI Rule 97 of CPC application and all parties shall be given a fair opportunity to put forth their claims and contentions. The Executing Court shall decide the application under Order XXI Rule 97 of CPC, on merits and in accordance with law, within a period of three



weeks from the date of receipt of a copy of this order. It is made clear that this Court, by order dated 05.06.2026, had granted an interim stay of further alienation pending the revision. In view of the revision now being allowed, the Executing Court being directed to test the application under Order XXI Rule 97 of CPC, in order to avoid further complications and multiplicity of proceedings, the 4th respondent shall not alienate or encumber the subject property until the decision in the Order XXI Rule 97 of CPC application.

6. In view of the above, the Civil Revision Petition is allowed and the order dated 20.09.2025 in REA.No.6 of 2025 in REA.No.4 of 2025 in REP.No.67 of 20187 on the file of the Additional Subordinate Court, Namakkal is set aside. In view of the revision being disposed of, on the limited ground that the trial Court had erroneously applied Order XXI Rule 58 of CPC, instead of Order XXI Rule 97 of CPC, I do not see any of the additional grounds being necessary for consideration in CMP.No.19974 of 2026 and the same is dismissed. No costs. Connected Civil Miscellaneous Petition is also closed.

03.08.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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P.B.BALAJI, J.

ATA

To
The Additional Subordinate Court, Namakal.

CRP No.2172 of 2026

03.08.2026