



WEB COPY



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A.No.6171 of 2023

in

E.P.No.65 of 2022

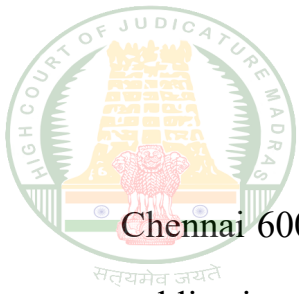
MASTER

24.11.2025

ORDER

1.This is an application filed by the applicant / Judgment Debtor to set aside the exparte order dated 01.02.2023 and to grant permission to file counter in the main execution petition.

2. The applicant submitted that the above execution petition is filed seeking the attachment of immovable properties mentioned in schedule 'A' of the execution petition and that he have not been served with the summons and copy of the execution petition. The applicant further stated that he was informed by his brother Mr.Dhamodaran that the property mentioned in the schedule 'A' of the execution petition which was sold by me to my brother has been attached, immediately the applicant appointed a counsel to represent and upon enquiry came to know that two execution petitions have been filed by the decree holder against him, one being the present E.P and the other is E.P.No.66 of 2022 of attachment of immovable properties. The applicant further stated that the decree holder has malafidely provide two incorrect addresses as that of his residence despite being well aware of the applicant current residence since 2013 and the applicant's current address is No.2-B, 34/14, 5th Street, 'Y' Block, Anna Nagar,



Chennai 600 040. The said petition in E.P.No.66 of 2022 and he is not aware of paper publication and he came to know about the present execution proceedings only through his brother and immediately he has filed this application.

3. Respondent filed his reply stating that the applicant / Judgment Debtor colluded with his own brother namely Mr.K.Dhamodaran to whom the applicant has eliminated the property with an ulterior motive and the petition was well aware of the notices issues by this court and the proceedings before this court. The respondent further stated that even after the knowledge of the notices he deliberately evaded to receive the notice and after before this court and so he was set exparte and subsequently an order of attachment was passed by this court on 03.03.2023 and it was effected in accordance with law. The respondent further stated that the petitioner has not shown any proof for his non-appearance before this court and his act of non-challenging the order of exparte till November 2023 itself exposes the laxity in the conduct of the applicant and so this application is liable to be dismissed.

4. Heard. Both side counsels and materials and records perused. The learned counsel for the applicant submitted that in connected E.P.No.66 of 2022 the very same petitioner has filed an application for amendment in A.No.1008 of 2024 and has amended the applicant's address as No.2 B, 34/14, 5th Street, Y-Block, Anna Nagar, Chennai 600 040. Further, he also argued that if the adjudication dated 28.07.2023 in E.P.No.66 of 2022 is seen the court come to the conclusion that the respondent who is



the petitioner in the execution proceedings as mislead the court and obtained the order of attachment.

In view of the submissions made by the applicant's counsel the E.P.No.66 of 2022 was verified by this court and judicial notice is taken regarding the adjudication dated 28.07.2023 wherein this court had set aside the exparte order and has ordered fresh notice by holding that order of attachment was passed based on the paper publication effected to the previous address as non-est. Subsequently, fresh notice was ordered to the current address of the applicant which is mentioned in this application, which was served upon this applicant who is the respondent in E.P.No.66 of 2022. Further, on perusal of case records, it is seen that the applicant/Judgment Debtor was set exparte in this execution petition also by way of effecting substituted service by means of paper publication to the previous address. The respondent herein has not spelt out the reason for not taking any steps to amend the address of the applicant in this execution proceedings and this conduct of the respondent lacks bonafide and so this court is inclined to allow this application.

Accordingly, this application will be allowed on condition that the applicant is directed to file his counter in the main E.P on or before 01.12.2025. No cost. For compliance 02.12.2025.

MASTER