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A.No.1663 of 2025



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
17.09.2026

PRONOUNCED ON
16.10.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.1663 of 2026

in

EP No.122 of 2025

Sun TV Network Limited
Rep., by its Authorised Signatory
Mr.M.Jyothi Basu,
Murasoli Maran Towers,
73, MRC Nagar Main Road,
MRC Nagar, Chennai – 600 028,
Tamil Nadu India.

... Applicant

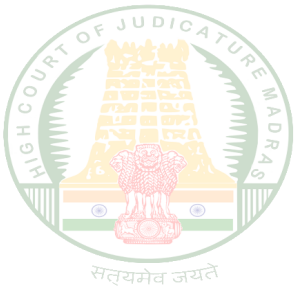
Vs

1.M/s.Marina Holdings,
Rep., by its Partner, Rajkumar Sethupathy,
Level 7A, Capital Towers, 555,
Anna Salai, Teynampet, Chennai – 600 018.

2.N.Ramasamy
Proprietor, Sri Thenandal Films,
Old No.19, New No.14,
Saraswathy Street, Mahalingapuram,
Nungambakkam, Chennai.

... Respondents

PRAYER:- Execution Application had been filed to allow the claim that the applicant being the bonafide transferee is the absolute owner of the schedule mentioned properties in E.P.No.122 of 2025 in view of the prior rights accrued and consequently release the attachment on the schedule mentioned properties in E.P.No.122 of 2025.



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For Petitioner : Mr.Jose John for
M/s.King & Partridge

For Respondent : Mr.K.Ravi, Senior counsel
for M/s.Rugan & Arya

ORDER

The Execution Application had been filed to allow the claim that the applicant being the *bonafide* transferee is the absolute owner of the schedule mentioned properties in E.P.No.122 of 2025 in view of the prior rights accrued and consequently release the attachment on the schedule mentioned properties in E.P.No.122 of 2025.

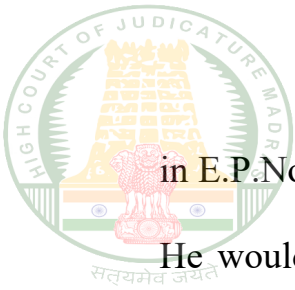
2. Heard Mr.Jose John, learned counsel appearing for the applicant and Mr.K.Ravi, the learned Senior counsel appearing for the respondent.

3. The learned counsel appearing for the applicant would submit that the applicant had entered into a Theatrical Distribution Agreement and an Assignment Agreement in respect of the Tamil film '**SARKAR**' with the second respondent whereunder, the second respondent was liable to pay a sum of Rs.80 Crores to the applicant. Disputes arose under the Theatrical Distribution Agreement and the second respondent along with his wife and sisters executed a guarantee and undertaking agreement under which they have agreed to encumber 11 immoveable properties belonging to them in favour of the



applicant. He would further submit that the applicant had instituted an arbitral proceedings under Section 9 of the Act before this Court, in which an order of attachment of the immoveable properties which are the subject matter of the Execution Petition came to be made. A Joint Memo of Compromise was also entered between the parties wherein they have agreed to execute a Sale Deed in favour of the applicant and the same came to be recorded by this Court and the applications were disposed of by order dated 23.11.2018. As the schedule of the properties were not found part of the order as indicated in the Memo of Compromise, the matter was again taken up before this Court on 10.02.2025 wherein the schedule of the properties were also directed to be appended. As again disputes arose between the parties, a further application was taken out. He would submit that while that being so, the first respondent had initiated arbitration proceedings as against the second respondent and had obtained an order of interim attachment of the properties and the properties were sold in favour of the applicant by the second respondent, his wife and sisters by a registered Sale Deed in the year 2021.

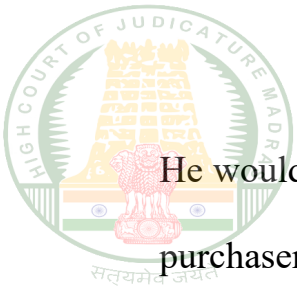
4. Further, arbitral proceedings was initiated by the applicant as against the second respondent in which an Award came to be passed directing the second respondent to hand over the possession of the residential properties which are the subject matter of the Execution Petition, to the applicant. A challenge to the same was negatived and pursuant to the Execution Proceedings



in E.P.No.109 of 2025 the possession had also been taken over by the applicant.

He would further submit that only now it had come to his knowledge of the dispute between the respondents 1 & 2 and the order of attachment made by this Court and that the said properties were also the subject matter of an Execution Petition under which it is sought to be sold and hence, he had taken out the present Application as is a *bonafide* transferee. He would submit that the order of attachment which came to passed in favour of the first respondent was much subsequent to the rights that had been given over the schedule of the properties to the applicant and in that regard the attachment cannot be held against the applicant and the properties been proceeded with against in the Execution proceedings. In that regard, he had also relied upon various judgments in support of his contentions. Hence, he prays this Court to release the attachment of the schedule mentioned properties which has also been made in the Execution proceedings.

5. Countering his arguments, learned Senior counsel appearing on behalf of the first respondent would submit that the earlier guarantee which is sought to be relied upon for vesting of a pre-existing right cannot be considered for the simple reason that such guarantee agreement or the undertaking given were not registered as required under the Registration Act. Hence, the said documents could only be used for collateral purposes and cannot be treated to be a document that had given a pre-existing right upon the applicant as claimed by it.



He would submit that the claim of the applicant, that the applicant is a *bonafide* purchaser is nothing but farce as the order of the attachment had been duly registered with the Registration Authority which is evinced from the Encumbrance Certificate which indicates that the order of attachment had been registered with the Registration Department on 10.09.2020. Hence, a subsequent purchaser of the properties cannot feign ignorance of an order of attachment. He would submit that it was the duty of the applicant to have verified the Encumbrance Certificate before even entering into a transaction of sale with the second respondent. Only to enforce an Award that the second respondent had suffered, the first respondent had initiated the execution proceedings, where also the properties were again attached for bringing the same to sale.

6. Drawing attention to proximity of the dates of Memorandum of understanding, guarantee, the initiation of proceedings before the Court and the compromise that had been arrived at between the parties, he would submit that the entire transaction that is sought to be relied upon for seeking the rasing of attachment would itself show that there has been a collusion between the parties. He would further submit that the earlier compromise that had been entered into between the parties in the year 2018 cannot be even looked into, as one of the party to the said compromise had moved before this Court by filing an application to set aside the said compromise recorded by this Court,



complaining of fraud and forgery and pending the subsequent application, a further Memorandum of Compromise had been entered between the parties which was subsequent to the order of attachment. In that regard, he would submit that even an existence of a pre-existence rights based upon a compromise order was only after the order of initial attachment in the year 2020 which was affirmed till the Hon'ble Apex Court in the year 2023. He would submit that the second respondent had also not brought on record the compromise decree made under Section 9 in the attachment proceedings that concluded in the Hon'ble Apex Court. He would further submit that the applicant would not be entitled for any protection either under Order XXXVIII Rule 10 or under Section 64 of CPC and in that regard, he would submit that the applicant is not a *bonafide* purchaser of the property entitling for raising the order of attachment. Hence, he prays this Court to dismiss the application filed by the applicant.

7. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.

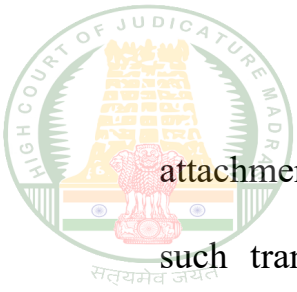
8. The attachment of the immoveable properties is sought to be raised claiming pre-existing rights in the said properties with that of the applicant. The applicant had relied upon a deed of guarantee that had been executed in the year



2018 and followed up with the undertaking given by the second respondent, a Joint Compromise Memo that had been entered between the applicant, the second respondent and his family members which was recorded by this Court for disposal of section 9 applications in the year 2018. It is also not disputed that one of the signatories of the Joint Compromise Memo had approached this Court seeking to set aside the order passed under Section 9 recording the Memo of Compromise which application was also disposed of by recording a further Memo of Compromise between the parties and such further compromises were entered between the parties on 23.09.2021. Based upon which the further application to set aside the earlier came to be disposed of particularly on the strength of the said compromise.

9. In the present case, the property was originally attached by this Court on 12.03.2020 in A.No.5210 of 2019 at the instance of the first respondent in an application under Section 9 filed against the second respondent, on failure of the second respondent to furnish security. Thereafter, arbitration proceedings were initiated and before the learned Arbitrator a further order of attachment came to be passed and also came to be registered with the jurisdictional Sub-Registrar on 10.09.2020. Admittedly, the applicant had purchased the property in the year 2021.

10. Section 64 CPC holds that a alienation of a property after an



attachment to be void, however, Sub-Section (2) would exclude a contract for such transfer or delivery entered into and registered before the order of attachment. Order XXXVIII Rule 10 would envisage that the attachment before a judgment in the given case would not affect the rights that existed prior to the order of attachment in respect of the persons who are not parties to the proceedings under which the property had been attached.

11. The applicant claims a pre-existing right based upon a guarantee and the subsequent Joint Compromise Memo which culminated in disposal of Section 9 application filed by the applicant as against the second respondent. It is true that a pre-existing right before an order of attachment can aid the benefit of holder of such pre-existing right over the order of attachment. But, however, Section 64 mandates that such a contract of transfer or delivery entered should have been registered before the attachment. Admittedly, in the present case, the deed of guarantee or the undertaking which are the relevant documents that have been claimed to vest a pre-existing right to the applicant are not registered documents.

12. It is further to be noted that based upon the agreement that had been entered upon between the applicant and the second respondent and based upon the guarantee and Memorandum of Understanding, the applicant had initiated Section 9 proceedings as against the Second respondent and others in which a

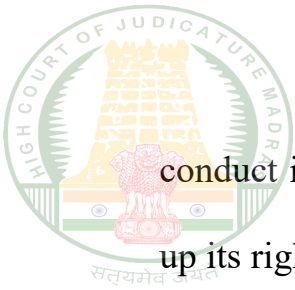


Joint Compromise Memo had been entered to between the parties in the year 2018 based upon which the said Section 9 applications came to be dismissed.

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This fact was also sought to be pleaded for continuation of the pre-existing right of the applicant which had occurred prior to the order of attachment. It should be noted that the said order recording the Joint Memo of Compromise was sought to be negated by one of the parties to the said Memo of Compromise by filing a further application before this Court to set aside the said orders on the ground of fraud and forgery. In the said proceedings the documents were directed to be sent for forensic examination and in that regard an Advocate Commissioner was also appointed. Thereafter, the parties have again entered into a fresh Joint Memorandum of Compromise on which basis the applications to recall were also disposed of. The conduct of the parties in those proceedings would only indicate that the earlier Joint Memo of Compromise in the year 2018, upon which initial Section 9 applications which were disposed of were never acted upon and only based upon the subsequent Joint Memo of Compromise Sale Deeds have been executed and it is pertinent to note that the second Joint Memo of Compromise that had been entered between the parties therein was subsequent to the order of attachment.

13. In such an event, this Court is of the considered view that the first Joint Memorandum of Compromise which was recorded by this Court and challenged cannot also give a pre-existing right to the applicant. In view of their

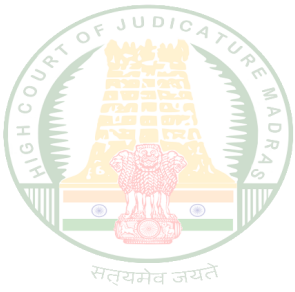


conduct in entering into a fresh Joint Memo of Compromise amounts to giving up its right and claim based upon the initial Joint Memo of Compromise. Hence, the claim of the applicant of either of the protection available under Section 64(2) and Order XXXVIII Rule 10 cannot aid to the applicant in the facts of the present case, since this Court had dealt with the issue on the facts and found that there had been no pre-existing rights in favour of the applicant as adumbrated above, this Court refrains itself from dealing with the prepositions that had been placed across the Bar.

14. For the aforesaid reasons, the application stands dismissed. However, there shall be no order as to costs.

16-10-2026

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

K.KUMARESH BABU, J.

Pbn

A Pre-delivery order made in
A.No.1663 of 2026
in
EP No.122 of 2025

16-10-2026