

IN THE XXVIII ASSISTANT CITY CIVIL COURT, CHENNAI

**Present : Tmt. B. SOUNDHARYA, M.A., M.L.,
XXVIII Assistant Judge**

Thursday, this the 03rd day of April, 2025

E.P.No. 90/2025

in

OS. No. 7023/2023

[CNR NO: TNCH01-000428-2025]

E-Filing No. ATN20220015084C202500001

B.Venkatesan,
S/o.Balakrishnan,
No.63/18, Gangai Amman Koil Street,
Vadapalani, Chennai – 600026.

...Petitioner/Decree Holder

-Vs-

A.Mani,
S/o.Arumugam,
No.11/6, 36th Street,
Pudur, Ashok Nagar,
Chennai – 600083.

....Respondent/Judgment Debtor

This Execution Petition has come up on 24.03.2025 for final hearing before me, in the presence of M/s. A.Dilliraj, P.Iyyappan and P.Ganapathi, Counsels for the Decree Holder/ Petitioner and the Judgment debtor was called absent set exparte on 13.03.2025 and heard the petitioner side enquiry and upon perusing the entire records and having stood over for consideration till this day, this court delivered the following:

ORDER

This Execution Petition has been filed under Order XXI Rule 54, 64 and 66 of CPC by the petitioner/Decree Holder seeking for execution of decree to attachment and sale of the immovable Properties of Judgment Debtor mentioned in the schedule

for recovery of E.P claim amount of Rs.7,58,972/- (Rupees Seven lakhs fifty eight thousand nine hundred and seventy two only) in pursuance of decree passed in OS. No. 7023/2023, dated 08.04.2024.

1. The Crux of the petition averments would run thus

The Decree Holder stated that he had filed a case in OS No.7023/2023 and after adjudicating the matter decree passed on 08.04.2024 by the III Assistant City Civil Court, Chennai, directing the Respondent/ Judgment Debtor to pay a sum of Rs.6,96,000/- together with interest from the date of filing of the plaint till the date of realization (Interest at 6% p.a. on Rs.4,00,000/- from 11.12.2023 to 01.01.2025, Rs.25,447/-) and also to pay Rs.27,480/- towards the cost of the proceedings. The total payable amount including other charges is Rs.7,58,972/-. This execution petition is filed against Judgment Debtor. The Judgment debtor has not paid any amount to the decree holder till date. Hence, this Execution Petition is filed to attach and sale of immovable properties of Judgment debtor to recover the EP Claim amount.

2. Non Appearance of Judgment Debtor

The Court notice sent to Judgment Debtor. Affidavit of service filed. RPAD returned as refused and the Judgment Debtor was called absent set exparte on 13.03.2025.

3. The point for consideration

1. Whether this petition deserves to be allowed or not?

4. No oral and documentary evidence adduced by the petitioner side. Heard petitioner side enquiry. Carefully perused the entire case records.

5. Answer to the Point

The petitioner/Decree Holder has filed case in OS. No.7023/2023 and the decree was passed on 08.04.2024 as stated above. Even after the decree, the Judgment debtor has not paid any amount to the decree holder till date. Hence, this

Execution petition is filed to attach and sale of the immovable properties belongs to the Judgment debtors so as to recover the EP claim amount. Judgment debtor called absent and set exparte on 13.03.2025. The Judgment Debtor has not proved that he preferred any appeal or filed any petition to set aside the decree within the time prescribed by law. Hence, the decree attained finality and it is an executable one and this petition is maintainable against the Judgment Debtor. The Judgment Debtor has failed to satisfy the decree. The Decree Holder is stated that the immovable property sought to be attach and sale which is described in the schedule of the petition belongs to the Judgment Debtor and the same is in possession of the Judgment Debtors. Therefore, the petitioner/Decree Holder is entitled to execute the decree to attach and sale of immovable property as per schedule in the E.P form towards satisfaction of the decree. Accordingly, the point is answered.

6. Result

In the result, this Execution petition is allowed against the Judgment Debtor ordered to attach and sale of the schedule mentioned immovable properties belongs to the Judgment Debtor. The attachment of immovable properties of Judgment Debtor by 19.06.2025. No costs. Batta within a week.

Dictated to Steno typist, directly computerized by her, corrected and pronounced by me in the open court, this the 03rd day of April 2025.

XXVIII Assistant Judge,
City Civil Court, Chennai

Both side Witnesses & Exhibits : Nil

XXVIII Assistant Judge
City Civil Court, Chennai

Draft/Fair Order

E.P.No.90/2025

in

OS. No. 7023/2023

03.04.2025

XXVIII Assistant Court,
Chennai.