

**IN THE COURT OF THE SUBORDINATE JUDGE, OMALUR
SALEM DISTRICT.**

**PRESENT: TMT. T.MALATHI, B.Sc., B.L.,
Subordinate Judge, Omalur.**

Tuesday, the 29th day of July 2025
R.E.P.No 132 /2022 in EP No.80/2019
in O.S.No.235/2018

P. Jaganathan . . . Petitioner/JH

Vs

1. Mani
2. Indira
3. Govindaraji
4. MohanrajRespondents/JD

This petition came up before me on 22.07.2025 in the presence of Thiru.P. Soundararajan, advocate for Petitioner, Thiru. G.Ilayaraja, advocate appeared to 1st Respondent, R2 to R4 court notice served called absent set exparte, upon perusing the records and argument and having stood over for consideration this court delivered the following :

ORDER

This petition filed by the petitioner under Order 21, 11(2) & 35(1) of Civil Procedure Code for delivering the possession of the petition mentioned properties to the petitioner.

2. The brief averments of the petition is as follows:

The petitioner herein the plaintiff in the above suit. The plaintiff and the power agent of 2 to 4 respondent who is the 1st respondent here in are entered into sale agreement on 19.03.2013. since as per the sale agreement the respondents not executed the sale deed . Hence, the petitioner filed a suit in OS.No.235/2018 and the petitioner

obtained and ex parte decree on 25.10.2018. After that the petitioner has deposited the balance sale consideration of Rs.3,09,000/-into the court. The plaintiff approached the defendants directly to execute the sale deed in favour of him. But the defendant did not come forward to execute the sale deed in favour of the petitioner. Hence the petitioner has filed the petition in REP No.80/2019 and on 25.06.2020 this court executed the sale deed on behalf of the defendant in favour of the petitioner. Hence for getting delivery of possession of the petition mentioned property, the petitioner has filed this execution petition.

2. The brief averements of counter filed by the 1st Respondent is as follows:

This Respondent has admitted all the facts of the petition as true. It is true that the petitioner has filed the suit against the respondents in O.S.235/2018 on the file of this court for the relief of Sepecific performance. It is true that after that ex parte decree was passed on 25.10.2018, the petitioner has deposited the balance sale consideration of Rs.3,09,000/-into the court. It is true that the plaintiff approached the defendants directly to execute the sale deed in favour of him and the defendant did not come forward to execute the sale deed in favour of the petitioner. It is true that the petitioner has filed the petition in REP No.80/2019 and on 25.06.2020 this court executed the sale deed on behalf of the defendant in favour of the petitioner, which was registered before the Sub Registrar Office, Omalur in doc. No.3984/2020. Then the above EP is terminated on 18.08.2021. After that the defendant not come forward to deliver the possession of the petition mentioned property. Therefore this respondent has no objection to hand over the delivery of possession of the petition mentioned property to the petitioner through court.

3. Since the respondents 2 to 4 are evading of service of notice the they have not appeared before this court and hence the respondents 2 to 4 were set ex parte.

4. Point for consideration is whether the petition is going to be allowed? or not?

5. No oral and documentary evidences adduced on both side .Petition, Affidavit, counter of R1 and case records were perused. Arguments of the petitioner and R1 side was heard and considered.

6. This Execution Petition has been filed by the petitioner/Decree Holder under Order 21 Rule 11 of C.P.C, to deliver and handover the possession of the petition mentioned property to the Petitioner/Decree Holder under Order 21 Rule 35 of C.P.C, failing which to do the same through process of court of law.

7. The contents of the petition is that the petitioner has initially launched the suit against the respondents in O.S.235/2018 on the file of this court for the relief of Sepecific performance. After that exparte decree was passed on 25.10.2018, the petitioner has deposited the balance sale consideration of Rs.3,09,000/-into the court. The plaintiff approached the defendants directly to execute the sale deed in favour of him. But the defendant did not come forward to execute the sale deed in favour of the petitioner. Hence the petitioner has filed the petition in REP No.80/2019 and on 25.06.2020 this court executed the sale deed on behalf of the defendant in favour of the petitioner, which was registered before the Sub Registrar Office, Omalur in doc. No.3984/2020. Then the above EP is terminated on 18.08.2021. After that the defendant not come forward to deliver the possession of the petition mentioned property. Hence the petitioner has filed this application for delivering the possession.

8. Though the notice served to the respondents 2 to 4 and they have not turned up to appear before this court, hence the respondents 2 to 4 were set exparte. It is to be presumed that the 1st respondent has no defence in the E.P. The suit also decreed and sale deed also executed in favour of the petitioner. Hence this court is inclined to hold that the petitioner is entitled to get an order of delivery of petition mentioned property and therefore the delivery of petition mentioned property is ordered and the Court Amin is directed to hand over the delivery of possession of the suit property to the petitioner.

In the result, the petition is allowed. The respondents are directed to Deliver the possession of the petition mentioned properties to the Petitioner . Batta in 3 days. Call on 26.08.2025.

Dictated to steno-typist, typed by her directly,c orrected and pronounced by me in the open court,this the 29th day of July 2025.

Subordinate Judge,
Omalur

Both side exhibits and witnesses: Nil

Subordinate Judge,
Omalur