

**IN THE COURT OF I ADDITIONAL DISTRICT & SESSIONS JUDGE,
CUDDALORE.**

Present : **Tmt.G.Saraswathi, M.L,**
I Additional District & Sessions Judge,
Cuddalore.

Tuesday, the 24th day of March 2026

I.A.No.269 of 2024 in O.S.No.83 of 2017

(CNR No. TNCD01 – 000659 – 2017)

1. Padmavathi
2. Rathinavel
3. Karpagavalli
4. Ramanujam
5. Ponninyselvi

...Petitioners /Plaintiffs

/Versus/

Ravichandran

...Respondent/Defendant

This petition came on 03.02.2026 before me for final hearing Mr.V.Loganathan, Advocate appears for the Petitioners/Plaintiffs and of M/s.C.Kalaimani and R.Anbudurai, Advocate appears for the Respondent/ Defendant and upon hearing petitioners and upon perusing the case records and having stood over for consideration till this day, this Court delivered the following:

ORDER

This petition is filed by the Petitioners/Plaintiffs under Section 151 of C.P.C. seeking to pass a final decree for realization of the decree amount by sale of the mortgage property with subsequent interest and costs and thus render justice.

2. Brief averments of the petition :

The petitioners/plaintiffs have filed the suit for recovery of mortgage amount against the respondent herein. After contest a preliminary decree was passed against the respondent for recovery of Rs.17,35,000/- (Rupees Seventeen Lakhs Thirty Five Thousand only) with subsequent interest and four months time was granted for repayment of the amount. But the respondent has not come forward to pay the amount as directed by the Court. Hence, final decree is to be passed for sale of the property. It is just and necessary in the circumstances that the Court may be pleased to pass a final decree for realization of the decree amount by sale of the mortgage property with subsequent interest and cost and thus render justice.

3. Brief averments of the Counter filed by the Respondent :

The Petition filed by the Petitioners is wholly not maintainable either in law or on facts and is liable to be dismissed in limine. The Respondent denies all the averments contained in the petition except those that are specifically admitted herein and puts the Petitioners to strict proof of the same. The alleged mortgage transaction does not bind him in any manner, as he has neither executed any mortgage deed nor received any consideration from the Petitioners. The Petitioners have obtained a preliminary decree based on a mortgage deed dated 03.06.2011 executed by one Vijaya, who is said to be the power agent of the Respondent; however, the said transaction is not valid or enforceable against the Respondent, as there is absolutely

no material to show that the Respondent authorized the said agent to create any mortgage or that the Respondent derived any benefit therefrom. Even assuming without admitting that a Power of Attorney was executed, the Petitioners ought to have proceeded against the said Vijaya, who is a necessary and proper party to the proceedings, and the failure to implead her renders the entire proceedings defective. The Final Decree Petition filed by the Petitioners is not in accordance with the provisions of law and is liable to be rejected, as the Petitioners have improperly invoked Section 151 CPC, which cannot be used as a substitute for specific statutory provisions, and the petition itself is defective for want of proper cause title, description of parties, and other mandatory particulars. The petition schedule property is not the absolute property of the Respondent but is an ancestral property allotted by Neyveli Lignite Corporation on compassionate grounds in lieu of lands acquired from the Respondent's family, and the same is jointly owned and possessed by the Respondent along with his legal heirs, each having only a limited and undivided share therein. In such circumstances, the Respondent had no exclusive right or authority to create any mortgage over the entire property, and any such transaction alleged to have been made by the power agent is void, illegal, and not binding on the Respondent or the other co-sharers. The property in question has no real marketable value and is subject to restrictions on alienation, and therefore the same cannot be brought to sale in execution of any decree. It is further that necessary parties have not

been impleaded and that a separate partition suit in respect of the very same property is already pending before the competent Court, and therefore, the present proceedings are not maintainable. In the above circumstances, the Petitioners are not entitled to any of the reliefs sought for in the petition, and the same is liable to be dismissed with costs.

4. POINT FOR CONSIDERATION:

Whether this petition is to be allowed or not?

5. DISCUSSION ON THE POINT:

Heard petitioners side. No representation for Respondent sufficient time given. Available records perused. Hence, I am inclined to allow this petition, Final decree passed in terms of preliminary decree.

In the result, this petition is allowed. Final decree passed in terms of preliminary decree. No costs.

Directly dictated to Steno-Typist, typed by her, corrected and pronounced by me in the open Court, on this the 24th day of March, 2026.

I Additional District and Sessions Judge,
Cuddalore.

List of witnesses and exhibits on both sides: Nil

I Additional District and Sessions Judge,
Cuddalore.