

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : Thiru. **G.Saran,B.L., P.G.Dip. in Env.Law.,**

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

(Full Additional Charge)

Friday, the 14th Day of March 2025

E.P. No.56/2024

-in-

(O.S.No. No.370/2022)

Chellammal

... Petitioner/Plaintiff

-Vs-

Nallasamy

... Repondent/Defendant

This petition came on 7.03.2025 before this Court for hearing in the presence of Tvl.S.Vijayarajan and K.Andavar, Advocates for the petitioner and Tvl.S.Selvakumar and D.Jeeva Selvakumar, Advocates for the Respondent and on perusal of records this Court delivers the following :

ORDER

1. The Execution petition is filed by the Decree Holder to realize the decree amount by selling the properties described in the Schedule through Court sale under Order 21, Rules 54 and 66 C.P.C.

2. The Decree holder has obtained a decree against the respondent on 30.10.2023 for a sum of Rs.11,32,000/- with subsequent interest of Rs.1,21,667/- and Rs.25,667/- from the date of suit till decree and from the date of decree till filing of the E.P. Since the respondent /Judgment debtor did

not repay the decree amount, he has filed this Execution petition to attach and sell the properties through Court auction and realize the decree debt.

3. The respondent states that the decree passed in the suit is an exparte decree and the petitioner has filed E.P. passed on the exparte decree. This respondent never borrow any amount from the petitioner. He not even known the petitioner. The petitioner has no source to lend such a huge amount. No consideration was passed through the pronote. This respondent is aged about 65 years. He solemnized his daughter's marriage by borrowing money from others. Hence the E.P is not maintainable and prays to dismiss the E.P.

4. Point for consideration in this petition is, **Whether the petition be allowed ?**

5. No oral and documentary evidence were adduced on both side.

6. **Answer to Point:**

It is needless to state that any decree including an exparte decree is valid and executable unless and until the same is set aside. Accordingly, the E.P. filed based on the exparte decree is maintainable. Though the respondent has claimed that the decree is an exparte decree, he has not taken any steps to get the exparte decree set aside. Further, there is no stay granted staying the execution of the decree and so there is no impediment to proceed with the execution of the decree.

7. Therefore, in these circumstances, the objections raised by the respondent are not sustainable and it is held that the E.P. is maintainable.

Since the respondent has not paid any amount even after filing the E.P, the decree holder is entitled to realize the decree amount by attach and sell the properties through Court auction sale. This point is answered accordingly.

In the result, this Execution Petition is allowed with cost and Attachment and Sale is ordered. Attach by 21/04/2025. Batta in three days.

Dictated to the stenographer, directly typed by her in computer, corrected and pronounced by me in the Open Court on this the 14th day of March 2025.

Additional District Judge,(FAC)
Dindigul.