

IN THE COURT OF THE PRINCIPAL SUB JUDGE, PALANI

**Present : Tmt.K.Renugadevi, LL.M.,
Principal Subordinate Judge, Palani.**

Dated 08th day of September 2026, Tuesday

E.P.No.81/2025

in

O.S.No.278/2014

(CNR.No.TNDG07-000638-2025)

A.K.Arumugam

... Petitioner/Plaintiff

/Vs/

K. Murugesan

... Respondent/Defendant

This petition came up before me for final hearing on 21.08.2026 in the presence of Mr.M.Manimegalai, learned Counsel for the Petitioner, and Mr.P.Velmurugan, Learned Counsel for respondent and upon hearing the petitioner side argument and upon perusal of records and having stood over for consideration till this date, this court doth delivers the following:

ORDER

The petitioner is the decree holder has filed this application under Order 21 Rule 66 of Civil Procedure Code to sell the attached property in the court auction sale to realise the decree amount from the respondent.

1. The petitioner/ decree holder has filed this petition to bring the petition mentioned property for sale that was attached before Judgment in I.A.No.416/2014 dated 25.06.2016, for the purpose of realising the decree amount on the basis of the

Judgment and decree passed in the above suit on 07.11.20216 as against the Repondent/ Judgment debtor.

2. The respondent filed counter stating that he was unaware of the exparte decree on 07.11.2016 and further alleged that after filing of the suit he has made a complaint before the Oddanchatram Police Station in which enquiry was conducted and the police officials did not interfere stating that it is the civil matter and the plaintiff promised that he would withdraw the suit before the police authorities, and so the respondent has not followed the case on the pretext that the plaintiff would have withdrawn the suit. Moreover he has not borrowed money or issued pronote in favour of the petitioner/decreed holder rather he issued pronote to various persons and the same has been misused by the plaintiff and he engaged his Counsel to lookafter the case but this respondent is not aware whether his Counsel followed the case or not as the respondent has no sufficient knowledge in law, he has not followed the case and so sought to dismiss this application.

3. On perusal it is seen that an exparte decree was granted in the suit on 07.11.2016 directing the defendants to pay Rs. 8,70,800/- along with interest 9% from 24.07.2014 till 07.11.2016 and thereafter 6% interest from 08.11.2016 to 27.08.2017. But the counter of the respondent that he was unaware of the case proceedings and he thought that the petitioner would have withdrawn the suit are all not the valid ground for deciding this application as the favourable decree has been already been passed and this court being the executing court should not travel beyond the decree and it has

to execute the decree as such, unless the Judgment debtor has any ground for execution petition under Section 47 of CPC.

4. Moreover there is no contest that the petition mentioned property does not belonged to him. Further the production of title deed dated 28.06.2010 would go to show that the petition schedule property belonged to the respondent and there is no encumbrance thereafter and so this court inclined to order sale of the petition mentioned property. However it is necessary to test the property so as to find out the extent of property necessary for realising the decree amount as per Order 21 Rule 64 of CPC.

In the result, this petition is allowed. For test (to assess the market value of the property). Batta in 3 days. Call on 28.10.2026.

Dictated to the Steno-Typist directly and computerised by her, corrected and pronounced by me in the open Court, on this the 8th day of September 2026.

Principal Sub Judge,
Palani.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil

Principal Sub Judge,
Palani.

Principal Sub Court, Palani
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Fair/Draft Order
Date : 08.09.2026