



**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE NO.01,
KODAIKANAL, DINDIGUL DISTRICT**

**Present : Thiru. R. ARUN PANDIAN B.A.,B.L.,(Hons).M.L.,
District Munsif Cum Judicial Magistrate No.01,
Kodaikanal.**

Thursday, the 18th day of December 2025

E.P.No. 01 of 2023

in

O.S. No. 47 of 2013

(CNR.No. TNDG11-000152 -2023)

Sterling Holidays Resorts Limited

Chennai, through its DGM Mr.S,Ramesh-

---- Petitioner/Plaintiff

/versus/

President

Vilpatti Panchayat,

Kodaikanal Taluk

----- Respondent/ 2nd Defendant

This petition is heard in the presence of, Thiru. I. Sam Jegan the Learned counsel for the Petitioner/Plaintiff and Thiru. A. Muniandi, the Learned counsel for the Respondent/2nd Defendant. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

ORDER

The petitioner's case in the main suit in brief is that, the respondent company indulges in business of running holiday resorts. Thus the petitioner holds a resort in the Vilpatti Village comprised in the Kodaikanal, in the name and style as "Valley View". In the said backdrop, the respondent/judgement debtor namely the president of Vilpatti village Panchayth erected an overhead water tank within the petitioner's property premises, in utter disregard of the objection raised by the petitioner. Despite the petitioner having earlier instituted a suit (OS 160 of 2004) for permanent injunction and having obtained a decree restraining the respondent from proceeding with the construction, the said overhead water tank continues to subsist on the petitioner's property in disregard of the decree passed in OS 160 of 2004. Therein after the petitioner herein i.e. Sterling

Holidays Resorts Limited, instituted another suit OS 47 of 2013 seeking relief of mandatory injunction directing the respondent herein to demolish the said over head water tank from the petitioner's property. The said suit OS 47 of 2013 having instituted by the petitioner on 28.02.2013, the court summon being dully served on the respondent herein, and respondent having been represented by counsel Mr. M.Murugesan, there after for more than fifteen hearing i.e. from 25.04.2013 to 08.01.2016 for around 32 months, the case stood posted for want of filing of written statement by the respondent herein, and was consequently set exparte on 08.01.2016. There after the suit OS 47 of 2013 was proceeded exparte and was decreed as prayed for by the petitioner on 25.01.2016. The petitioner/plaintiff herein had obtained a decree of mandatory injunction as against the respondent herein, to remove the construction made by them in the suit schedule property, for the execution of which the present execution petition stands filed.

2. The respondents being put on notice, dully represented by counsel, filed a counter placing assertions that, for the reason that no written statement was filed due to the failure of the then village president to provide due instruction, the decree came to be passed. It is the contention of the respondent that although the decree was passed on 25.01.2016, the petitioner never intended to enforce the same. It is further contented that only when the respondent's office refused to grant the building permit and approval for the proposed construction, the petitioner, by way of retaliation , chose to file the execution petition. As an added reason, the respondent placed that petition to setaside the exparte decree was preferred by the respondents.

3. Regarding the contentions raised by the respondent. It is not denied that decree is passed by the trial court. It is settled principle of Law that, the executing court cannot go behind the decree nor its validity can be challenged unless there is an inherent lack in jurisdiction. Though petition to set aside the ex parte decree is specified to be preferred, the said petition having concluded against the respondent herein is noted. Further considering the factor that appellate court has not granted stay, nor the decree is set-aside, the decree holds good and effective. Hence, the contention as raised by the respondent fails to sustain. The E.P. for removal of the construction in the suit schedule property, is allowed. Delivery by 23.01.2026 , batta in 3 days, call on 23.01.2026.

Dictated to Steno-Typist, typed by him on computer, and pronounced in open court on 18.12.2025

**District Munsif Cum
Judicial Magistrate No.01,
Kodaikanal.**

Petitioner side Witnesses : Nil

Petitioner side Documents:

Ex.P1 Certified Judgment copy of O.S.No.160/2004

Ex.P2. Certified Decree copy of O.S.No.160/2004

Respondent side witnesses :Nil

Respondent side documents:Nil

**District Munsif Cum
Judicial Magistrate No.01,
Kodaikanal.**