

**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.
Friday, the 05th day of June 2026**

E.A.No. 23 of 2019

in

E.P.No. 17 of 2017

in

O.S. No. 53 of 2012

1.	C. Madhanagurusamy, Aged 65/2019, S/o.S.O.P.T. Chinnasamy Naidu, Residing at No.5, Mill Road, S.M. Puram, Palani.
2.	D. Gurumurthi, Aged 53/2019, S/o.R.Dhanapalan Naidu, Residing at No.94C, Type 2 Quarters 7 th Block Neyveli.
3.	Dhavaselvi, Aged 43/2019, W/o. Kariaperumal, Residing at 16/A NA Naidupuram, Kodaikanal. ----- Petitioners
/versus/	
1.	Shankar @Shanjaralingam, Aged about 65/2019, S/o. Late. Subramania Pillai, Resided No.32/32-1, Ward No.3, Shanmugapuram, Naidupuram, Kodaikanal Town, Kodaikanal Taluk and now residing at Door No.86/56, Mariamman Kovil Street, Ward No.19, Kambam Town, Uthamapalayam Taluk, Theni District.
2.	R. Raju, S/o.Ramasamy, Resided at door No.15, Balaji Avenue T.Nagar, Chennai -17 and now residing at Ananda Cottage Kurathi Solai Road, Naidupuram, Kodaikanal Town, Kodaikanal Taluk, Dindigul District
3.	R. Shriram, S/o. Raju, Residing at No.15, Balaji Avenue, T.Nagar, Chennai-17 ----- Respondents

This Petition is preferred by the Petitioner under Order 21 Rule 97 C.P.C, Rule 101 C.P.C and section 151 CPC.

Petition presented on : 13.11.2019

Taken on file Date : 20.11.2019

Court Fee of Rs.20/-

This petition is heard in the presence of, Thiru. Selvarajesh the Learned counsel for the Petitioner and Thiru. S.Pandiyarajan, the Learned counsel for the 1st Respondent and Thiru.P.Arumugavelan, the learned counsel for the 2nd and 3rd Respondents. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

Ex-order

- 1) The petition is dismissed.
- 2) No cost is ordered.

Schedule of property

திண்டுக்கல் பதிவு மாவட்டம், கொடைக்கானல் சப்டி, கொடைக்கானல் தாலுகா, வில்பட்டி கிராமம், முனிசிபல் லிமிட்டிஹ்குள் உட்பட்ட மேற்படி கிராமம் பழைய சர்வே எண்.688-க்கு தற்கால் ரீ சர்வே எண். வார்டு, C. Block No.2. T.S.No.31-ல் கண்ட 0.26.5 ஹெக்டேருக்கு 65 செண்டு நிலத்தில் வடமேற்கு பக்கம் 5.3/4 செண்டும், மேற்கு பக்கம் A ஷெட்யூல் பாகஸ்தல் மூன்று செண்டும் ஆக 8 3/4 செண்டு நீங்கலாக 56 1/4 செண்டு நிலத்திற்கு மால்

வடக்கு : முத்திராஜ் பிள்ளை நிலம், தெற்கு : முத்துராஜ் பிள்ளை நிலம், கிழக்கு : பால் நாடார் நிலம், மேற்கு : A ஷெட்யூல் பாகஸ்தர் மூன்று செண்டு நிலமும், சண்முகபுரம் போகும் ரோடும், B ஷெட்யூல் பாகஸ்தர் வீடும் நிலமும், ஊ பாகஸ்தல் வீடும் இம்மாலுக்கு உட்பட்ட 56 1/4 செண்டுள்ள புஞ்சை பூராஸ்தலமும் சேர்ந்து ஸ்தம் ஒன்று.

Cost List

Cost list was not filed both sides

Given under my hand and seal of this court, on this the 5th day of June 2026.

**District Munsif Cum Judicial Magistrate NO.1,
Kodaikanal.**

**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.**

Friday, the 05th day of June 2026

E.A.No. 23 of 2019

in

E.P.No. 17 of 2017

in

O.S. No. 53 of 2012

1. C. Madhanagurusamy
2. D. Gurumurthi
3. Dhavaselvi

---- Petitioner

/versus/

1. Shankar @Shanjaralingam
2. R. Raju
3. R. Shriram

----- Respondents

This petition is heard in the presence of, Thiru. Selvarajesh the Learned counsel for the Petitioner and Thiru. S.Pandiyarajan, the Learned counsel for the 1st Respondent and Thiru.P.Arumugavelan, the learned counsel for the 2nd and 3rd Respondents. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

ORDER

This Petition is preferred by the Petitioner under Order 21 Rule 97 C.P.C, Rule 101 C.P.C and section 151 CPC.

1. Brief particulars of the main suit :-

Sangralingam @ Sangar instituted O.S. No. 53 of 2012 seeking a declaration of title over the suit schedule property on the strength of a registered Partition Deed dated 20.12.1989. Consequentially, he sought recovery of possession of the suit property. He further prayed for a declaration that the Sale Deed dated 26.04.1993 executed by Raju in favour of his son Sriram, registered as Document No. 485 of 1993, insofar as it relates to the suit schedule property, is null and void and not binding on him. The suit was contested by the defendants Raju, Sriram and proceeded to full-fledged trial. Both Sangralingam @ Sangar

and the defendants, namely Raju and Sriram, were duly represented by their respective counsel and were afforded adequate opportunity to adduce oral and documentary evidence. Upon a detailed consideration of the pleadings, evidence and materials available on record, the trial Court decreed O.S. No. 53 of 2012 in favour of Sangralingam @ Sangar by judgment and decree dated 31.01.2017, granting the reliefs sought for in the suit.

2. For enforcement of the decree pertain the relief of recover of the possession, an execution petition EP 17 of 2017 was filed by the decree holder Sangralingam @ Sangar. During the pendency of the said EP 17 of 2017, the Petitioners, namely Madhanagurusamy, Gurumurthi and Dhavaselvi, have instituted the present application invoking the provisions of Section 47 CPC, Order XXI Rule 97 CPC and Order XXI Rule 101 CPC against the respondents. The 1st Respondent is the decree holder, Shankar @ Sankaralingam, and the Respondents 2 and 3 are the judgment debtors. The petitioners contend that they purchased the suit schedule property from Shri Ram (R3) and his brother R. Ananthakrishnan under a sale deed dated 29.03.2012 for valuable consideration and have been in peaceful possession and enjoyment of the property ever since. According to them, though the suit was instituted on 20.03.2012, neither the petitioners nor their vendor Ananthakrishnan were impleaded as parties to the proceedings. The petitioners further submit that the case of the decree holder in the suit was that Shankar @ Sankaralingam had executed a power deed in favour of Raju, where Raju subsequently executed a sale deed in favour of his son Shri Ram by committing fraud upon Shankar @ Sankaralingam. It is stated that the suit schedule property originally belonged to Subramanian Pillai, the father of Shankar @ Sankaralingam, and that under a registered partition deed the suit property was allotted to Shankar @ Sankaralingam, while an extent of 51 cents was allotted to his brother Sivaraman. The petitioners contend that Raju had acquired the portion allotted to Sivaraman and his mother Lakshmiammal through a power deed bearing Document No.10 of 1989 for valuable consideration. It is further alleged that Shankar @ Sankaralingam himself executed a power deed dated 11.07.1991 in favour of Raju after receiving the sale consideration. Thereafter, Raju executed a sale deed dated 22.04.1993 in favour of Shri Ram. The petitioners contend that the suit was instituted after a lapse of nearly 19 years from the said transaction and was therefore barred by limitation. According to them, a suit for recovery of possession was not maintainable and, at best, the decree holder could have sought recovery of the sale consideration. On the above grounds, the petitioners contend that the decree was obtained contrary to law. The petitioners further assert that they and their predecessors-in-interest have been in continuous possession and enjoyment of the suit schedule property for more than 30 years and have thereby perfected

title over the property. They also claim title by adverse possession. It is further averred that the petitioners became aware of the decree only in October 2019 when the Court Amin visited the suit property in execution proceedings for delivery of possession. Since they were not parties to the suit, the petitioners contend that the decree is not binding upon them. Consequently, they seek a declaration in the present petition that the suit schedule property belongs to them and pray for appropriate reliefs.

3. The 1st respondent/ decree holder being put on notice placed contention that, the petitioners are acting in willful disobedience of the decree passed by the Court. The petitioners accounted to have purchased the suit property without ascertaining the title and rights of their transferor. The plea of adverse possession set up by the petitioners is wholly unsustainable in law and on facts. It is asserted that the present petition has been instituted only with an intention to obstruct and defeat the enforcement of the decree. The respondent contended that, in order to notify the public regarding the pendency of the dispute and to prevent further alienations, a public notice was caused to be published in a daily newspaper on 19.01.2012, cautioning prospective purchasers against creating any encumbrance over the suit property. The respondent further asserted that Anantha Krishnan has no manner of right, title, interest, or concern whatsoever in respect of the suit property and, therefore, the contentions founded upon his non-impleadment are wholly misconceived and devoid of merit. The respondents Raju and Sriram, being the judgment debtors and closely related as father and son, have supported the petitioners' claim through a counter statement. Sriram being the transferor under whom the petitioners claim title, has espoused the petitioners' case in a manner that is champertous and suggestive of collusion, evidently intended to frustrate the execution of the decree.

4. To begin with, while deciding the tenability of the petition filed under section 47 of the Civil Procedure Code, Sec 47 of CPC applies only to matters arising subsequent to the passing of a decree. The petitioners claims to be a transferor of the judgement debtor namely Shriram. The petitioners asserts that they have purchased the suit scheduled (OS 53 of 2012) way back on 29.03.2012, wherein they have not been impleaded in the suit as party is the prime contention raised. Thus the essential ingredients namely i) the question must be one arising between the parties, and ii) it must relate to execution, discharge or satisfaction of the decree. The said presence of ingredients is not fulfilled. The contention of the petitioners is that since they have not be arrayed in the main suit, and hence the decree is not binding on

them, clearly point to a bone of contention relevant to the stage prior the passing of the decree.

5. Examining the legality of invocation Order 21 Rule 97 and Rule 101 CPC, it is delineated that, O 21 R 97 CPC is a rule which provides for the decree-holder or auction purchasers to apply to the executing court in case of resistance and obstruction in the process of delivery by any person. The petitioners herein are neither the decree holders nor the auction purchasers. The petitioners (objectors of execution of decree) if had set up an independent right, title or interest in the suit schedule property, this court would have deemed the claim of the petitioners is preferred under Order 21 Rule 99 CPC. Whereas the petitioners herein are the transferee pendente lite. The main suit OS 53 of 2012 was instituted on 20.03.2012. The petitioners herein are the purchasers of the suit scheduled property from the judgement debtor Shriram. The petitioners herein purchased the suit scheduled property on 29.03.2012 i.e. after the institution of the suit. The law is clear that, pendency of a suit or proceeding shall be deemed to commence from the date of presentation of the plaint. The petitioner Dhavaselvi having entered the witness-box and being subjected to the test of cross-examination, wherein her testimony reveals the factum that during pendency of this petition, the petitioner has further created encumbrance by alienating a portion of the suit property to her son Balaji and daughter Sailaja. This factum clearly aimed at causing further protraction of the execution proceedings.

6. During the cross-examination of the petitioner, Dhavaselvi, conducted by the learned counsel for the decree holder, it emerged that the petitioner was well acquainted with the judgment-debtor, Raju, and had been in occupation and cultivation of the property as his cultivating tenant. Though the petitioner claims to be a transferee of the judgment debtors, Raju and Sriram, and places reliance upon Ex.P1 Sale Deed dated 29.03.2012, the recitals of the said document expressly state that the sale consideration was paid through a negotiable instrument, namely a cheque. However, during her testimony, the petitioner Dhavaselvi deposed that the consideration was paid in cash. This material inconsistency strikes at the very root of the transaction and casts serious doubt on its genuineness. The contradiction clearly indicates that the sale deed is a collusive document brought into existence after the institution of the suit with the object of defeating and defrauding the rights of the judgment creditor, Sankar @ Sankaralingam.

7. Section 52 of the Transfer of Property Act provides adequate protection to the judgement creditor Shangralingam @ Shankar. Sec 52 binds whoever takes the property by a transfer during the pendency of litigation, would be automatically bound by the decision of the court and the decree passed can be enforced against the subsequent purchasers too. It is irrespective of whether he was formally joined in the litigation as a party or not. Suit is deemed to be pending until the decree so passed is completely satisfied or discharged. Hence the aspect is placed that, further encumbrance created by the petitioner Dhavaselvi in-favour of her son Balaji and daughter Sailaja, cannot stand in the way of execution of the decree. Venturing into the claim of adverse possession, it is settled law that adverse possession must be hostile, open, continuous, and accompanied by a clear assertion of title in denial of the title of the true owner. In the present case, the petitioners have themselves traced and rested their claim of title over the suit property through Sriram. Having acknowledged and derived their claim from Sriram, the petitioners cannot simultaneously assert a hostile title against the true owner. Therefore, the essential ingredients of adverse possession are wholly absent, and the plea of adverse possession advanced by the petitioners is unsustainable in law.

8. This Court, in the main suit O.S. No. 53 of 2012, has categorically declared and decreed that Shangralingam @ Shankar is the owner of the suit schedule property. The petitioners trace and claim their alleged rights over the suit property through their transferor/judgment-debtor, namely Sriram. The said Sriram purportedly purchased the property from his father, Raju, under a Sale Deed dated 22.04.1993 (Ex.P3). However, the said Sale Deed has already been declared null and void insofar as it relates to the suit schedule property. It is further evident that Raju was only the power agent of the decree holder, Shangralingam @ Shankar, and had no independent right, title, or interest in the suit schedule property capable of being conveyed. Consequently, Sriram acquired no valid title under Ex.P3. Mere contention that Since the petitioners claim through Sriram, whose title itself stands negated, they cannot assert any better right than their transferor. Therefore, the obstruction caused by the petitioners in the process of delivery is wholly devoid of any legal basis, right, or entitlement. When the very right and title of judgement debtor Raju, over the suit property have been negated by the Court upon a thorough appreciation of the oral and documentary evidence adduced during trial, the fact that his son, Anathakrishnan, was not arrayed as a party to the suit is of no consequence and does not affect the validity or binding nature of the decree. The decree, having attained finality, cannot be assailed at the stage of execution by raising a plea of limitation or other objections that ought to have been agitated in the suit proceedings. It is settled principle of law that, an executing court cannot go behind

the decree. It has to execute the decree as it is. Further the executing court cannot question the correctness or otherwise of the decree.

Therefore, the contentions raised by the petitioner are wholly devoid of merit, untenable hence this petition is dismissed. No cost.

Dictated to the Steno- Typist, Typed by him in Computer and pronounced by me in open court this the 5th day of June 2026.

No1
District Munsif Cum Judicial Magistrate
Kodaikanal.

1.Petitioner side witnesses :-

1. PW-1 -Dhavaselvi

2. Petitioner side Exhibits:

Ex.P1	29.03.2012	Sale Deed	Original
Ex.P2	12.07.2011	Power of Attorney deed	Photo copy
Ex.P3	22.04.2013	Sale deed	Original
Ex.P4	12.07.2013	Patta	Original
Ex.P5	14.10.2019	Encumbrance certificate	Computer output copy
Ex.P6	--	Receipts	Original

2.Respondent side witnesses : Nil

3.Respondent side Exhibits: Nil.

4.Court witnesses and Exhibit: Nil

District Munsif Cum Judicial Magistrate No1
Kodaikanal.

