

**IN THE COURT OF THE I ADDITIONAL SUBORDINATE JUDGE,
ERODE.**

PRESENT : THIRU.G. ASHOK PRASATH, B.A., B.L., M.S.E.N.,
I ADDITIONAL SUBORDINATE JUDGE, ERODE.

On Wednesday, the 16th day of July 2025

On Thiruvalluvar Varudam 2056, Tamil Visuvavasu Year, Aani Thingal 32nd day

E.A.No.4/2024

in

EP.No.282/2006

In

OS.No.679/1996

G.M.Kumaravel

...Petitioner/Respondent/J.D

/vs/

N.P.Sekar

...Respondent No.1/ Decree Holder

This petition has come up on 08.07.2025 for final hearing before this court in the presence of Thiru.V.Dhandapani, learned advocate for the petitioner, Thiru.P.C.Palanisamy, learned advocate for Respondent upon hearing both sides, on perusal of available materials on record and having stood over for consideration till this day, this court delivers the following:-

ORDER

This Petition has been filed Under Order 21 Rule 29 and Section 151 of CPC to stay all the further proceedings in the execution petition till the disposal of the above application filed under 21 rule 97 read with section 47 and 151 of CPC.

2. The Brief Averments of the Petition are as follows.:-

3. The respondent filed the above suit for specific performance against me

E.A.No.3 of 2024 in EP.No.282 of 2006

I ASJ Court, Erode.

before this court in the year 1996 on the basis of a sale agreement dated 11.12.1992 alleged to be executed in between me and the respondent. In view of findings given by the Hon'ble court Chennai in CRP filed against the respondent in OS.No.713 of 2024 on the file of the hon'ble II Additional District judge Court, Erode and the suit is posted to 26.11.2024 for the appearance of the respondent. The above execution petition is posted for enquiry in the main EP and it is posted to 29.10.2024 for hearing the enquiry on the side of me today. I state that am having valid grounds to succeed the above EA and under the above circumstances the proceedings of the aforesaid execution petition are to be stayed till the disposal of this application.

4. The Brief Averments of the Counter are as follows:-

5. The petitioner is put to strict proof of all the allegations made in the petition except those that are all specifically admitted herein as true. This respondent filed the above suit for specific performance against the petitioner in OS.No.679/1996 before the principal subordinate judge, erode and obtained a decree dated 30.03.1999 the respondent has filed a petition for execution of sale deed in EP.NO.296/1999 and this Court has executed the sale deed dated 27.06.2002 infavour if this respondent. Subsequently this respondent has filed the EPR.282/2006 for delivery of possession against the petitioner and the same is pending. The petitioner's daughter namely suganya and two sons namely kavithiruburan and yogeswaran have filed a claim petition u/s 47 of cpc against the petitioner (Kumaravel) and the respondent (Sekar) in the EA.No.331/2000 and the same was dismissed by this court on 03.07.2012.

Against the fair and decretal order the claimants have preferred and appeal before the Hon'ble II Additional District Judge, Erode in AS.No.88/2012. Since no appeal would lie against any order passed U/s 47 of CPC and hence the hon'ble II Additional District Judge, Erode has dismissed the appeal on 09.07.2013. Therefore, said claimants have preferred a revision before the Hon'ble High court of Judicature of Madras in CRP.No.1260/2014 and the Hon'ble High court has remanded the matter with a specific direction by an order dated 04.07.2019. The claim petition in EA.No.331/2008 in EPR.No.282/2006 was taken up for fresh disposal on a particular issue as per the order of the Hon'ble High Court of Judicature at Madras in CRP.No.1260/2014 and the same was dismissed by the I Additional Subordinate judge of erode on 04.03.2020. Against the fair and final order, the claimants have preferred a vision for the second time again before the Hon'ble High court of Judicature at madras in CRP(NPD) No.1381/2020 and the same was also dismissed on 22.12.2023. In the said CRP(NPD) No1381/2020 the hon'ble lordship has extracted the relevant portions of the order passed by this trial court in EA.No.331/2008 in EPR.No.282/2006 in OS.No679/1996 and referred the same in his order dated 2.12.2023 at page 10 to 16 in para 12, 13, 14 and confirmed the order passed by the I Additional subordinate judge of Erode as follows

6. Since the trail court has passed the above detailed order by taking into consideration of all the aspects raised by the revision petitioners and keeping the observation contained in the earlier order in CRP NO.1260 of 2014 this court is of the

considered view that the fair and decretal order passed by the I additional subordinate court, Erode in EA No.331 of 2008 in EP.No282 of 2006 in OS.No.679 of 1996 does not warrant any interference by this court and the same is hereby confirmed. Therefore the petitioner cannot raise the same issue again with references to the maintainability of the decree and judgement passes in the OS.No.679 of 1996. Therefore the above petition is not maintainable and barred by resjudicata and also barred by limitation.

7. This respondent further submits that the petitioner has suppressed a very vital fact that on 2.04.1999 he has filed a petition in IA.No644/2000 in OS.No.679/1996 to set aside the decree dated 30.03.1999 on the file of the file of the Principal Subordinate Judge of Erode This respondent has filed a detailed counter in the said petition. The Hon'ble Principal Subordinate Judge of erode has dismissed the said petition in IA.No.644/2000 in OS.No.679/1996 dated 30.08.2000 on merits. The petitioner did not disclose the said fact in all the above proceedings. It clearly shown his malafide intention. He has not come to the court with clean hands. There is absolutely not necessary for this Hon'ble court to hear the above objections as raised by the petitioner in the above paras for rendering reasonable decisions and to pass suitable orders because already decisions have been made by the Hon'ble High Court of Judicature at madras in CRP(NPD)No.1381/2020 dated 22.12.2023with reference to the maintainability of decree and judgment to prove the nullity of decree.

8. There are no merits in this petition. The petitioner has filed this petition only with view to protract the proceedings and to put the respondent into hardship. This respondent prays that there is absolutely no necessity to stay all further proceedings in the above execution petition as prayed by the petitioner in EA.No.4/2024.

9. Heard Both sides, No oral and documentary evidence adduced on either side, Whether the petition deserves to be allowable or not?

On Point:-

10. The petitioner side contended that the respondent filed the suit for specific performance against the petitioner in 1996. Furthermore, the petitioner issued a reply notice dated 15.9.1996 and denied all the allegations made by the respondent. The petitioner had received the sale amount as a borrower of a loan from the respondent. The Trial court passed a non-speaking ex parte decree and judgment against the petitioner on September 30, 1999. The petitioner side further contended that the respondent has filed a similar type of specific performance suit, OS.No:678/1996 against the petitioner before the 1st Additional Subordinate Judge, in which specific performance relief was dismissed, whereas alternative relief of refund the advance amount and Ex-parte decree and Judgment was passed against the petitioner on 11.4.2001. It is therefore, the respondent paid the amount only as a loan to the petitioner, and the same is not for the alienation of properties. The petitioner side further stated that the above execution petition is posted for inquiry on 29.10.2024, so the petitioner has valid grounds to succeed the above E.A. and under the above

circumstances, the proceedings of the aforesaid execution proceedings are to be stayed till the disposal of this application filed under Order 21 Rule 97 read with section 47 and 151 CPC. Whereas the other side contended that there is no necessity to stay all further proceedings in the above execution petition as prayed in E.A.No:4/2024.

11. In light of the above aspect of grounds, the petitioner side is to stay all further proceedings till the disposal of the application filed under Order 21 Rule 97 read with sections 47 and 151 CPC, but here the petitioner filed the petition under Order 21 Rule 101 r/w section 151, which was not maintainable at all because the same was not filed along with the order 21 Rule 97 and 99 CPC, moreover the petitioner side falsely stated that the petition filed under order 21 Rule 97 R/W section 151 CPC mentioned in this petition which lead to suppression of facts and thereby concealing the ground reality of facts because it is very well shows that the petition filed under Order 21 Rule 101 r/w section 151 CPC, then how the same has to be entertainable one, it is therefore clear that the petitioner filing this kind of frivolous petition to prolong the proceedings of the matter and thereby keeping this matter in pending for ever which is sole aim and ultimate destination of the petitioner. Further, nowadays, the petitioner side has a habit of filing again and again frivolous

petitions to drag on the proceedings of the matter, because here in the instant matter, already E.A.No:331/2008 in EP.No:282/2006 in OS.No:679/1996 which were all adjudicated by this court, and the same also confirmed by the Honourable High Court of Madras in CRP.No:1381/2020 dated 22.12.2023 and then again filing several applications again and again to protract the proceedings of the execution application which all would spoil the fruits of decree because all the proceedings were exhausted, then once again relitigating the matter by way of conduct the trial proceedings before the execution court which cannot be entertainable one because our Honorable Apex Court held that in so many catena of judgments and orders that it is well settled principle of law, the execution court cannot travel beyond the decree. Therefore, there is no prima facie in the petition, almost 29 years have passed since the OS.No:679/1996 filed in 1996, and the E.P.No:286/1999 which was disposed on 27.6.2002 in respect of the execution of the sale deed, now this matter is only pending for the delivery of possession in EP.No:282/2006, for which again this petitioner doing the similar manner of another round of litigating the issues which is purely delaying tactics to prolong the matter to meet the ends of justice. Given the above aspect of the reasons, this Petition stands dismissed and No cost.

As a result, this Petition stands dismissed and No cost.

Dictated to the Steno-typist and typed by him directly in the computer, corrected and pronounced by me in open court, on this the 16th day of July 2025.

I Additional Subordinate Judge,
Erode.

Petitioner and Respondent side Witness and Documents:

-Nil-

I Additional Subordinate Judge,
Erode.

Draft/Fair Order

EA.No.4/2024 in

EP.No.282/2006

Dated:16.07.2025

I ASJC, Erode.