

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 Thursday, the 5th day of June 2025

On Thiruvalluvar varudam 2056, Tamil Visuvavasu Year, Vaikasi Thingal 22nd day

I.A.No.8/2024

in

O.S.No.380/2022

V.Murugavel

..Petitioner/Plaintiff

/vs/

C.Palanisamy

...Respondent/Defendant

This petition has come up on 20.12.2024 for final hearing before this court in the presence of Thiru.T.Bhuvaneswar, learned advocate for the petitioner, and Thiru.S.Jeevanantham, learned advocate for the respondent and 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

1. This Petition has been filed Under section 151 of CPC to official of Erode North Police Station in order to break open the suit property to effect the order of attachment passed in I.A.No.2 of 2022

2. The Brief averments of petition filed by the petitioner:-

3. It is stated that the petitioner filed the suit for recovery of rent accrued to the tune of Rs 1,87,500/- against the respondent along with an application for attachment of machinery and the same was allowed in IA.No:2/2022 on 2.12.2024 by this court. The amin went to the suit property to effect the attachment on 17.12.2024 but the respondent locked the door and he won't open the door. Under such circumstances, except by way of break open, is unable to execute the order passed in the above-mentioned interlocutory application. Hence the petition.

4. The Brief averments of counter filed by the respondent are as follows:-

5. All the allegations stated in the petition were denied as false except a few were admitted as true.

6. It is stated that the respondent filed the suit for permanent injunction before the Principal District Munsif Court, Erode as OS.No337/2018 and the same was decreed in favour of the respondent which was also known to this petitioner. It is therefore, the petitioner has no right to seek the prayer of break open the door and police aid. The petitioner has filed the RLTOP.No:3/2022 for seeking to evict the respondent from the suit property before the Principal District Munsif Court, Erode. This respondent filed a memo in the above RLTOP.No:3/2022 stating that the respondent was ready to vacate from the suit property and hand over the possession of the suit property to the petitioner but the petitioner to grab the movable property from the respondent. Further, the respondent filed the EP.No:6/2022 for contempt proceedings before the Principal District Munsif Court, Erode which itself shows that the respondent disobeyed the decree passed in the above-mentioned suit filed before the Principal District Munsif Court, Erode. Further, on 12.12.2021, the petitioner locked the door of the suit property by welding, so the respondent was also unable to enter the suit property which amounts to illegality, now this petitioner stating falsely that Rs 1,87,500/- as rental arrears amount to and thereby intention to grab the movable properties in the suit property. There is no prima facie in the petition and the same is liable to be dismissed with cost.

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

On Point:

8. The petitioner side argued that the suit for recovery of rent accrued to the tune of Rs 1,87,500/- against the respondent along with an application for attachment of machinery and the same was allowed in IA.No:2/2022 on 2.12.2024 by this court. The amin went to the suit property to effect the attachment on 17.12.2024 but the

respondent locked the door and he won't open the door. Under such circumstances, except by way of break open, is unable to execute the order passed in the above-mentioned interlocutory application. Whereas the Respondent side argued that the respondent filed the suit for permanent injunction before the Principal District Munsif Court, Erode as OS.No337/2018 and the same was decreed in favour of the respondent which was also known to this petitioner. It is therefore, the petitioner has no right to seek the prayer of break open the door and police aid. The petitioner has filed the RLTOP.No:3/2022 for seeking to evict the respondent from the suit property before the Principal District Munsif Court, Erode. This respondent filed a memo in the above RLTOP.No:3/2022 stating that the respondent was ready to vacate from the suit property and hand over the possession of the suit property to the petitioner but the petitioner to grab the movable property from the respondent. Further, the respondent filed the EP.No:6/2022 for contempt proceedings before the Principal District Munsif Court, Erode which itself shows that the respondent disobeyed the decree passed in the above-mentioned suit filed before the Principal District Munsif Court, Erode. Further, on 12.12.2021, the petitioner locked the door of the suit property by welding, so the respondent was also unable to enter the suit property which amounts to illegality, now this petitioner stating falsely that Rs 1,87,500/- as rental arrears amount to and thereby intention to grab the movable properties in the suit property. There is no prima facie in the petition.

9. In light of the above aspect of grounds, here in the instant petition already attachment was allowed by this court and the same was reflected in IA.No:2/2022. Further, the respondent side has not come forward to pay the arrears to the petitioner which is why the above interlocutory application was filed and the same was allowed. Now here the respondent side stated that the door of the suit property was locked with welding by the petitioner for which there is no proof of records, at present, in this petition only to execute the attachment over the movables in the suit property mentioned in IA.No:2/2022. Thus in order to execute the

attachment over the movables in the suit property for which Bailiff shows that the attachment was unable to be executed because the door was locked in the scheduled premises in the suit property which was unrebutted by the respondent side. It is therefore necessary to break open the door of the scheduled premises in the suit property. Hence in the interest of justice and to meet the ends of justice, this court is inclined to allow this application. As a result, this application is allowed, the Bailiff is permitted to break open the lock in the scheduled premises in the suit property in order to execute the attachment over the movable in the suit property. Further, this court is directed to the concerned Police to give aid at the time of break open the scheduled premises in the suit property.

As a result, this Petition stands allowed 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 5th day of June 2025.

I Additional Subordinate Judge,
Erode.

Petitioner and Respondent side Witness and Documents:

-Nil-

I Additional Subordinate Judge,
Erode.

Draft/Fair Order
I.A.No.8/2024 in
OS.380/2022
Dated: 05.06.2025
I ASJC, Erode.