

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 Friday, the 17<sup>th</sup> day of October 2025

On Thiruvalluvar Varudam 2056, Tamil Visuvavasu Year, Puratasi Thingal 31<sup>st</sup> day

CNR.No.TNED02-000719-2024

E.P.No.5/2025

in

OS.No.647/2015

K.Ponnusamy

..Petitioner/Decree Holder

/vs/

Bakkiyalakshmi

...Respondent/Judgment Debtor

This petition has come up on 15.10.2025 for final hearing before this court in the presence of Thiru.K.Mohanraj, learned advocate for the petitioner, Thiru.J.Chandran, 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 11(2) of CPC for sale of immovable property.

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

3. It is stated that the realization of the amounts mentioned in Column Nos. 7 and 8, the petitioner prays to issue notice to the respondent, calling upon him to pay the above-said amount, failing which, under Order 21 Rule 66 CPC, an order to sell the schedule-mentioned mortgaged property after issuing the proclamation to collect the decree amount. Hence the Petition.

**4. The Brief Averments of the counter filed by the Respondent are as follows:-**

5. This respondent denies all the allegations contained in the petition except those that are specifically admitted herein.

6. It is stated that the respondent already filed the detailed written statement in the suit as well as the final decree application. This respondent, due to poverty already approached the legal authorities to prefer the appeal that process going on. The property is worth about Rs.15 lakhs, but the petitioner purposely underestimated the value of the property by Rs.12 lakhs. It is further stated that Order 21 Rule 64, the decree holder is to proceed with the sale of the properties just sufficient to the decree amount to realize the same. So, 1/3<sup>rd</sup> of the property value is more than sufficient to meet out the decree amount. So, no necessity to entire property for sale. The suit property is also a residential house of the respondent. The respondent lives with his family members in the same. To grab the property of the respondent alone, the petitioner suppressed all the matters and filed this petition. There are no merits in the petition, and the same is liable to be dismissed with costs.

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

**On Point:-**

8. The petitioner side contended that the realization of the amounts mentioned in Column Nos. 7 and 8, the petitioner prays to issue notice to the respondent, calling upon him to pay the above-said amount, failing which, under Order 21 Rule 66 CPC,

an order to sell the schedule-mentioned mortgaged property after issuing the proclamation to collect the decree amount. Whereas the other side contended that the respondent had already filed the detailed written statement in the suit as well as the final decree application. This respondent, due to poverty already approached the legal authorities to prefer the appeal that process going on. The property is worth about Rs 15 lakhs, but the petitioner purposely underestimated the value of the property by Rs 12 lakhs. It is further stated that Order 21 Rule 64, the decree holder is to proceed with the sale of the properties just sufficient to the decree amount to realize the same. So, 1/3<sup>rd</sup> of the property value is more than sufficient to meet out the decree amount. So, no necessity to entire property for sale. The suit property is also a residential house of the respondent. The respondent lives with his family members in the same. To grab the property of the respondent alone, the petitioner suppressed all the matters.

9. In light of the above aspect of grounds, the petitioner has obtained the Preliminary decree dated 15.7.2019 and the Final decree dated 9.9.2022. So, the petitioner, after obtaining the above decree, the respondent has not come forward to settle the decretal amount to the petitioner. Therefore, the respondent is evading the payment of the decretal amount as reflected in this petition. Here, the respondent mentioned that the appeal process is going on, but the respondent has failed to give the specific particulars of the appeal but merely stating that the appeal cannot be entertained because the respondent failed to procure the proof of records and evidence. Further, the property is worth about Rs.15 lakhs, but the petitioner

mentioned the property is worth about Rs.12 lakhs, for which there is no material proof of records and evidence established by the respondent side. The respondent side further stated that the 1/3<sup>rd</sup> of the property value is more than sufficient to meet out the decree amount. So, no necessity to entire property for sale for which was also merely stated on the counter, but there were no details and particulars sufficiently given by the respondent side. It is therefore, there are no valid and prompt reasons mentioned in the counter. It is clear from the respondent side of stand of version that the respondent has been evading to pay the decretal amount as mentioned above to the petitioner. So, the fruits of the decree were not spoiled; therefore, the petition mentioned property to be attached for collecting the decretal amount as reflected in the petition. It is therefore necessary for the petition-mentioned property to be attached to issue a sale proclamation in respect of the realization of the decree. Given the above aspect of the reasons, this Petition stands allowed with costs.

As a result, this Petition stands allowed with costs.

Dictated to the Steno-typist and typed by him directly in the computer, corrected and pronounced by me in open court, on this the 17<sup>th</sup> day of October 2025.

I Additional Subordinate Judge,  
Erode.

Petitioner and Respondent side Witness and Documents:

-Nil-

I Additional Subordinate Judge,  
Erode.

**Draft/Fair Order**

EP.No.5/2025 in  
OS.No.647/2015  
Dated.17.10.2025  
I ASJC, Erode.