

N 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 17th day of October 2025

On Thiruvalluvar Varudam 2056, Tamil Visuvavasu Year, Puratasi Thingal 31st day

CNR.No.TNED02-001085-2024

E.A.No.2/2025

in

EP.No.17/2025

P.Thangavel

...Petitioner/Judgment Debtor

/vs/

1. Sathyamoorthi

2. Mallika

3. Hariharan

...Respondents/Decree Holder

This petition has come up on 17.10.2025 for final hearing before this court in the presence of Thiru.S.Velmurugan, learned advocate for the Petitioner, 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 Sec 151 of CPC to reopen the respondent side enquiry for adducing evidence on his side.

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

3. It is stated that the execution petition was posted on 15.10.2025 for inquiry. It is further stated that there were no arguments were heard on the petitioner side. Further, the above execution petition was posted today for orders. The petitioner side stated that the petitioner preferred a pauper petition along with the Appeal. The petitioner has a chance of succeeding in the Appeal proceedings. Under such circumstances, the oral evidence is essential in respect of the above aspect of grounds. Moreover, to argue this matter, which is necessary for this execution petition. It is therefore necessary to reopen the petitioner side for the above-stated

grounds. Hence the Petition.

On Point:-

4. In this instant matter, the Petitioner's side was represented during the calling hours regarding the inquiry on their side in the execution petition, and the matter was sufficiently heard. Even though the other side has made an endorsement as opposed and taken notice, however, it is therefore taking this matter on its merits to decide whether this application is bound to allow or not. Furthermore, this matter is only for the EP for arrest, which has been pending for the past seven months. Further, the petitioner side contended to procure the oral evidence, which was not explained on what aspect of grounds and the same was not reflected in this petition. At this Juncture, this court relied upon Periyammal (Dead) Through Lrs & Ors. Versus V. Rajamani & Anr. Etc. 2025 Live Law (SC)293, wherein our Honourable Apex Court held that “The seeker of justice many a time has to take long circuitous routes, both on account of hierarchy of courts and the procedural law. Such persons are and can be dragged till the last ladder of the said hierarchy for receiving justice but even here he only breathes fear of receiving the fruits of that justice for which he has been aspiring to receive. To reach this stage is in itself an achievement and satisfaction as he, by then has passed through a long arduous journey of the procedural law with many hurdles replica of mountain terrain with ridges and furrows. When he is ready to take the bite of that fruit, he has to pass through the same terrain of the procedural law in the execution proceedings, the morose is writ large on his face. What looked inevitable to him to receive it at his hands distance is deluded back into the horizon. The creation of the hierarchy of courts was for a reasonable objective for conferring greater satisfaction to the parties that errors, if any, by any of the lower courts under the scrutiny of a higher court be rectified and long procedural laws also with good intention to exclude and filter out all unwanted who may be the cause of obstruction to such seeker in his journey to justice. But this obviously is one of the causes of delay in justice. Of course, under this pattern the party wrongfully gaining within

permissible limits also stretches the litigation as much as possible. Thus, this has been the cause of anxiety and concern of various authorities, legislators and courts. How to eliminate such a long consuming justice? We must confess that we have still to go a long way before true satisfaction in this regard is received. Even after one reaches the stage of final decree, he has to undergo a long distance by passing through the ordained procedure in the execution proceedings before he receives the bowl of justice. These provisions contemplate that for execution of decrees, executing court must not go beyond the decree. However, there is steady rise of proceedings akin to a retrial at the time of execution causing failure of realisation of fruits of decree and relief which the party seeks from the courts despite there being a decree in their favour. Experience has shown that various objections are filed before the executing court, and the decree-holder is deprived of the fruits of the litigation and the judgment-debtor, in abuse of process of law, is allowed to benefit from the subject-matter which he is otherwise not entitled to. 26. The general practice prevailing in the subordinate courts is that invariably in all execution applications, the courts first issue show-cause notice asking the judgment debtor as to why the decree should not be executed as is given under Order 21 Rule 22 for certain class of cases. However, this is often misconstrued as the beginning of a new trial. For example, the judgment debtor sometimes misuses the provisions of Order 21 Rule 2 and Order 21 Rule 11 to set up an oral plea, which invariably leaves no option with the court but to record oral evidence, which may be frivolous. This drags the execution proceedings indefinitely. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree. Execution proceedings should not be used to re-litigate issues already decided in the suit. The executing court's role is limited to ensuring the decree is executed, not to question its validity. It reaffirms the principle that executing courts

cannot go behind the decree or re-adjudicate issues already decided in the suit.

5. It is therefore clear from the above precedents delivered by the Honourable Apex court directing re-adjudication of issues already decided in the suit. Moreover, the petitioner side has not given any kind of security to ensure the satisfaction of the decree, whereas the petitioner simply says that to give oral evidence, which is not at all necessary because the issues were already decided in the trial proceedings; and the Appeal was pending but there is no stay was granted by the Appellate forum, further the respondent side stated that the respondent was a pauper for which there is no proof of records and evidence established by the respondent side. Therefore, here it is only to execute the decree. So, the petitioner is only dragging the execution proceedings indefinitely, which cannot be entertained by this court. It is therefore there is no prima facie in the petition to reopen the matter once again to prolong the matter and thereby keep the matter pending always and getting adjournments, which is only in more interest of the petitioner's side, which would affect the fruits of the decree of the decree holder. It is therefore there are no sufficient reasons mentioned in the petition, and also no prima facie in the petition to entertain in respect of the core issue of the execution petition. Given the above aspect of the reasons, this Petition stands dismissed and no costs.

As a result, this Petition stands dismissed and No 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 17th 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

EA.No.2/2025 in

EP.No.17/2025

Dated:17.10.2025

I ASJC, Erode.