

**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 27th day of November 2025

On Thiruvalluvar Varudam 2056, Tamil Visuvavasu Year, Karthigai Thingal 11th day

CNR.No.TNED02-000172-2023

E.P.No.164/2023

in

OS.No.1019/2025

M/s Shriram Finance Ltd.,

Erode Rep by its Authorized Signatory

A.Ramkumar

..Petitioner/Decree Holder

/vs/

1. P.Jagadhesan

2. J.Anitha

3. C.Reetarachalrubarani

4. J.Siranjeevan

...Respondents/Judgment Debtors

This petition has come up on 26.11.2025 for final hearing before this court in the presence of Thiru.R.Jaganathan, learned advocate for the petitioner, Thiru.R.Palanisamy learned advocate for 1st Respondent, 2nd Respondent called absent and set exparte, 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 to attach and sale of Movable property.

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

3. It is stated that the petitioner/decreed holder prays to issue the notice to the

respondent in respect of the attachment of movable properties to realize the amount claimed in Columns 9 and 10, with subsequent interest from the respondent by actual seizure and the same to keep under the custody and to order to proclamation of sale. Hence the Petition.

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

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

6. It is stated that the 1st respondent the loan in his name on behalf of the 2nd respondent. At the time of divorce took place between the 1st and 2nd respondents through the court, the 1st respondent paid Rs 74,000/-, so the 2nd respondent agrees to pay the remaining balance amount. It is therefore necessary to file the execution petition to be filed in the name of the 2nd respondent and thereby to collect the amount from the 2nd respondent. Further, the 2nd respondent also informed the Manager and agreed to pay the loan amount. The petitioner knows the above facts, but the petitioner wantonly suppressed the facts regarding that the 1st and 2nd respondents had already paid the amount. The calculations mentioned in Columns No. 9 and 10 were not proper. The property, as mentioned in the petition which was all under the custody of the 2nd respondent. The 1st respondent is unable to run his livelihood. The 1st and 2nd respondents have been taking steps to set aside the exparte award. The original debtor was not added as a party to the proceedings of the execution; hence, this petition is not maintainable. This respondent filed the additional counter even after receiving the additional documents. Hence, this petition 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 petitioner/decreed holder prays to issue

the notice to the respondent in respect of the attachment of movable properties to realise the amount claimed in Columns 9 and 10, with subsequent interest from the respondent by actual seizure and the same to keep under the custody and to order to proclamation of sale. Whereas the other side contended that the 1st respondent took the loan in his name on behalf of the 2nd respondent. At the time of divorce took place between the 1st and 2nd respondents through the court, the 1st respondent paid Rs.74,000/-, so the 2nd respondent agrees to pay the remaining balance amount. It is therefore necessary to file the execution petition to be filed in the name of the 2nd respondent and thereby to collect the amount from the 2nd respondent. Further, the 2nd respondent also informed the Manager and agreed to pay the loan amount. The petitioner knows the above facts, but the petitioner wantonly suppressed the facts regarding that the 1st and 2nd respondents had already paid the amount. The calculations mentioned in Columns No.9 and 10 were not proper. The property, as mentioned in the petition which was all under the custody of the 2nd respondent. The 1st respondent is unable to run his livelihood. The 1st and 2nd respondents have been taking steps to set aside the exparte award. The original debtor was not added as a party to the proceedings of the execution; hence, this petition is not maintainable.

9. In the rival contention of both sides, the 1st respondent admitted that he obtained the loan on behalf of the 2nd respondent, which was admitted by the 1st respondent and the same was reflected in the counter filed by the 1st respondent. Already, the award was passed on 18.3.2016, but till date, these respondents have not come forward to settle the matter with the petitioner rather, the 1st respondent has mentioned that the amount of Rs.74,000/- was paid, for which there was no proof of records and evidence established to prove his side of version. It is therefore there were no valid and prompt reasons mentioned in the counter filed by the 1st respondent, and the 2nd respondent was set exparte, which itself shows that the respondents were suppressing the ground reality of facts in respect of the core issue of the matter. Further, the respondents have been evading paying the award amount to

the petitioner since 2015 onwards, even after the passing of the award in 2016. Thereafter, the respondent dragged the matter and is now presently filing this petition to execute the award amount for realization in favour of the petitioner, because the fruits of the decree cannot be spoiled, so the respondents are evading the payment of the award amount along with interest, as reflected in the petition. It is therefore necessary to attach the properties as mentioned in the petition and the same to keep under the custody and to order to proclamation of sale for the realization of the award amount along with interest, which was mentioned above. Given the above aspect of the reasons, this petition stands allowed and no costs.

As a result, this Petition stands allowed 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 27th day of November 2025.

I Additional Subordinate Judge,
Erode.

Petitioner and Respondent side Witness and Documents:

-Nil-

I Additional Subordinate Judge,
Erode.

Draft/Fair Order

EP.No.164/2023 in

Acp.No.1019/2025

Dated.27.11.2025

I ASJC, Erode.