

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Wednesday, the 12th day of March 2025

E.A.No. 01 of 2024 in E.P.No. 06 of 2021 in O.S.No. 35 of 2012

TNKI13-000034-2021

Alamelu

...Petitioner /Decree Holder / Plaintiff

/versus/

1. Subramani (Died)
2. Sekar
3. Thirupathi
4. Ranganadhan
5. Duraisamy @ Kutti
6. Kamala

...Respondents / Judgment Debtors / Defendants

7. Kasthuri
8. Thavmani
9. Rukkumani
- 10 Raji

...Respondents / Legal Representatives of the 1st Defendant

This execution application came up before this Court on 02.01.2025 for final hearing in the presence of advocate Thiru. K. Vadivel, the learned counsel for the petitioner and the respondents 2 to 6 already set *ex parte* in the execution proceedings and the respondents 7 to 10 set *ex parte* for non-appearance and upon hearing petitioner side and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The execution application has been filed under section 50 of the Code of Civil Procedure, 1908 for impleading the legal representatives of the deceased 1st defendant.



The averments of the petitioner in brief:

1. The petitioner herein is the decree holder and plaintiff in the suit, and avers that while the execution proceeding was pending, the 1st respondent namely Subramani s/o. Mariyappapoyan died and Kasthuri (wife) of the deceased 1st defendant, Thavamani and Rukkumani (daughters) and Raji (son) are the legal heirs of the deceased Subramani. The petitioner avers that the respondents 7 to 10 have to be impleaded in the execution proceeding for complete adjudication and prays for allowing this application and implead the petitioners to the execution proceedings.

Non-appearance of the respondents 7 to 10:

2. Notices to the respondents 7 to 10 were served, and the respondents 7 to 10 failed to appear before the Court and were set *ex parte* on 19.12.2024.

Non-appearance of the respondents 2 to 6:

3. The respondents were already set *ex parte* in the execution proceedings and they remained absent through the execution proceeding. Hence, the notice to the respondents 2 to 6 were dispensed in order to avoid further delay in the proceedings.

Point for consideration:

4. Whether this application is liable to be allowed?

Evidence:

5. Neither of the parties to this application has adduced any oral or documentary evidence.

Discussion:

6. This Court heard the learned counsel for the petitioners. This application is filed for impleading the respondents 7 to 10 on account of death of the 1st respondent



pending execution proceedings. The petitioners aver that the 1st respondent died and Kasthuri (wife of the deceased 1st defendant), Thavamani and Rukkumani (daughters) and Raji (son) are the legal heirs of the deceased Subramani. This application is filed under section 50 of the Code of Civil Procedure, 1908 and for better appreciation, the provision is extracted herein under:

“...50. Legal representative.—(1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit...”

7. Here in the present case at hand, the decree sought to be executed is a final decree passed in a suit for partition and separate possession, and the petitioners seek for delivery of separate possession according to the final decree in the execution petition. Hence, the above provision is squarely applicable to the execution proceeding as the 1st judgment debtor died during the pendency of execution proceedings. However, the legal representatives of the deceased 1st judgment debtor have not come forward to raise any objection as to the death of the 1st judgment debtor / 1st defendant or their capacity of legal heirship or the extent of property that has come into their hands from the deceased 1st judgment debtor. Hence, this Court is inclined to allow this application without any cost.



Result:

8. As a result, this application is allowed. No cost. The respondents 7 to 10 are directed to be impleaded in the execution proceedings.

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 12th day of March 2025.

Sd/-
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil

Sd/-
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif
Uthangarai