

In the Court of the Principal District Judge,
Principal District Court, Kancheepuram.

PRESENT: **Thiru Pa.U.Chemmal, M.A.,LL.M.,**
Principal District Judge,
Principal District Court ,
Kancheepuram.

Friday the 19th day of September 2025

E.A.No.4/2025 in E.P.57/2022 in A.S. No.130/2017

1. K. Indresh kumar .. petitioner/2nd respondent 2nd
Judgment Debtor

2. Jayashree

3. Sudha

...Petitioners/2 and 3 Judgment
Debtors.

Vs

P. Jayachandran

.... 1st Respondent/Petitioner/Decree
Holder/appellant.

This petition is coming on 12.09.2025 for final hearing before me in the presence of M/s. L. Sowmiya Narayanan, M. Priya, Counsels appearing for the Petitioners and M/s. B. Dayaalan, D. Praveenkumar, D. Deepakrajan, Counsels appearing for the respondent and upon hearing the arguments on both sides and upon hearing arguments on both sides and upon perusal of records and having stood over the matter for consideration till this day, this court delivered the following

ORDER

This petition is filed by the petitioner under Section 151 of C.P.C to permit the petitioners to deposit the amount of Rs.3,00,000/- in this court towards the part satisfaction of the debt.

2) The averments set out in the affidavit of the petitioners/ judgment debtors in read as follows:

The petitioner is the 2nd respondent/ 2nd judgment debtor in the above execution petition.

The petitioners suffered a decree of recovery of amount. During the last hearing , they offered Rupees Three Lakhs towards the part satisfaction of the decree, but the counsel for the decree holder disagreed, Therefore the petitioner wanted to deposit the amount of Rs.3,00,000/-. No prejudice will be caused to the respondent/ decree holder. Contrast to that the decree holder is very particular in bringing the property for sale which is three times more value than the decree debt. Hence, petition may be allowed as prayed for with costs.

3) The averments found in the counter of the Respondent/ Decree holder in brief is as follows:

The respondent is the decree holder herein.

The respondent had filed the above original suit/Plaint dated 13.05.2013 made in O.S.No.37 of 2013 on the file of this court and sought for the reliefs of

Specific performance and permanent injunction against the deceased 1st defendant and the petitioners 1 and 2/ judgment debtors 1 and 2/ appellants 1 and 2/ defendants 2 and 3 herein. The above suit was dismissed by the Hon'ble District Judge, District Court-II, Kancheepuram against him on various grounds and by its decree and judgment dated 16.09.2016. As aggrieved against the decree and judgement dated 16.09.2016 passed by the court, the respondent challenged the same in the first appeal in A.S.No.130/2017 on the file of the Hon'ble High Court of Judicature at Madras and also brought on record the 3rd respondent/3rd judgment -debtor herein in the above first appeal vide order of the court, dated 15.03.2017 made in CMP.No.4630 of 2017 in the above appeal, since the first defendant died on 10.11.2016 after the above suit was dismissed by the court and which is even before the above first appeal filed in the Hon'ble High Court of Madras.

The Hon'ble High Court of Madras was pleased to partly allow the above first appeal by its decree and Judgment, dated 07.01.2022, even after vehemently contested in the first appeal by the petitioners/ judgment -debtors herein, and directed the petitioners 1 to 3 / judgment debtors 1 to 3 herein to settle the advance amount of Rs.12,00,000/- along with interest at the rate of 10% per annum from the date of the plaint till the date of realisation within a period of six months from the date of receipt of a copy of the said judgment and

decree; and such copy made ready only on 17.08.2020 by the court, since the Hon'ble High Court has stipulated time of six months for settlement of the entire amount of principal and its accrued interest thereon as above, the respondent have been waiting for its expiry on 16.02.2021 and even then no settlement was made as directed by the Hon'ble High Court and it is significant to point out by him that the date of the plaint in the above suit is dated on 13.05.2013 . The petitioners/ judgment debtors have not been made payment to him as directed by the Hon'ble High Court and no other go, the respondent have forced to file the above execution petition before this court.

The respondent knowledge and belief that the petitioners/ judgment-debtors have no other property except their house property, which is a subject matter of the above suit and the above execution petition as well. In such circumstances and during pendency of the above execution petition, the respondent have filed a petition, dated 12.06.2021 made in E.A.No.1 of 2022 in the above E.P. under Order XXI Rule 41 of CPC for their attendance on a specified date before this court and to make an affidavit stating the particulars of their assets by fixing time span, and in case of disobedience of this court's order for the same by the respondents/judgment-debtors, this court may be pleased to direct the petitioners/judgment-debtors who have been disobeying the order, be detained in the civil prison for a term not exceeding three months

unless before the expiry of such term this court directs their release for which the petitioners/judgment-debtors have filed their counter, dated 09.01.2023, after a long period of one and half years, for which this court has granted time and without any valid reasons and on 19.12.2023 the petitioners/judgment debtors have filed their affidavit under Order 21 Rule 40 of CPC with respect to that they have no other property/assets except the suit property which is nothing but the subject matter of the above execution petition and apart that they have stated in the above affidavit, they have no independent assets.

Since the petitioners/ judgment-debtors have failed to file their counter in the above E.P. also and this court was pleased to post the above E.P. for payment . It is significant to point out by the respondent that the petitioners/judgment debtors have filed their affidavit as above under Order 21 Rule 40 of CPC with respect to that they have no other property except the suit property which was inherited by them through deceased 1st defendant's father and apart that, they have added in their aforesaid affidavit, they have no independent assets and being the case is as such, the question of payment with respect to decretal amount and accrued interest thereon does not arise at all as part payments and which is nothing but to drag on the above execution proceedings, in such circumstances the only remedy available to the respondent is an attachment of their immovable house property and which is a subject

matter of schedule of property described in the above E.P. by prohibiting the petitioners/ judgment-debtors from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, direct the petitioners/ judgment debtors to attend this court on a specified date to take notice of the date to be fixed for setting the terms of the proclamation of sale. This court was pleased to allow the above petition as to raise attachment of the aforesaid property and for which the respondent have taken steps and the proceedings is going on as directed by this court.

On 04.03.2025, the petitioner/judgment-debtors before this court informed that they have ready to offer Rs.3,00,000/- as part payment towards the satisfaction of the decree and for which the respondent have instructed the respondent counsel would have to refuse to accept the same and insisted the court for the auction sale of said property as to realize the entire amount as directed by the Hon'ble High Court.

Suddenly on 10.03.2025, and when attachment proceedings has been going on towards the auction sale proceedings of the above execution petition, the petitioners/judgment debtors have filed the above petition with respect to that they have been suffered for decretal amount and ready to deposit said Rs.3,00,000/- as part payment towards the satisfaction of the decree and for which they have sought for permission as to deposit the same in the court and

which is without having any independent assets neither movable nor immovable property in their favour, as to satisfy the above decree, as per their affidavit, dated 19.12.2023 made in E.A. No.1 of 2022 in the above E.P.

The State Government for the purpose of stamp duty and registration charges, it has enhanced guideline value of the property in the state as exorbitantly for more than two to three times of the prevailing market value of the properties the said house property is more than 70 years old, which is in a dilapidated condition and will be fallen down in the future monsoon season and being so, the prevailing market value of the said property is only Rs. 25,00,000/- to Rs. 28,00,000/- and in any manner does not exceed more than Rs.29,00,000/- It is no doubt that the above property belongs to the petitioners/ judgment debtors as absolute owners thereof and that they would estimate their property more than three times of the satisfaction of decretal amount as estimated in their petition affidavit as they like and which could not be prevented by no one else, which includes himself and this court and tomorrow which is after proclamation of sale, they will file another petition that their property has enhanced in value and which is worth about more than Rupees Ten Crore to Fifteen Crore as to avoid auction sale proceedings for years together and which would defeat the Apex Court's law made with respect to that the execution proceedings should be disposed of within the period of six months.

As such the above application is not maintainable in law and is liable to be dismissed in limine.

The Hon'ble Apex Court in SLP (C) No(s) 19654/2022 - Bhoj Raj Garg - Vs- Goyal Education and Welfare Society and others, held that "the executing court must dispose of the Execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay". In the present case the judgment-debtors have been abusing the process of court and which would not be allowed by this court as to maintain the dignity of judiciary.

The above suit was filed by the respondent in the court on 13.05.2013 and decree and judgment was made in the above first appeal by the Hon'ble High Court on 07.01.2020 and it has granted six months time to the judgment debtors for the satisfaction of the decretal amount and for getting verdict, the respondent have waited for eight (8) years and subsequently E.P. Was filed in the court on 14.06.2021 and till then, for nearly past 4 years, the respondent was not satisfied with respect to decretal amount.

The above petition filed by the petitioners/ judgment-debtors is nothing but as to drag on the above execution proceedings for years together and nothing more than that. However, the Hon'ble High Court has given a specific direction to the petitioners/ judgment -debtors in the above first appeal as to

satisfy the entire decretal amount along with interest thereon within six months from the date of receipt of copy of the order/decreed and judgment they have disobeyed and had given disrespect to the court orders in such circumstances, the above such execution petition was filed by the respondent and it is the duty of this court to give relief to the respondent as to dispose of the above E.P. as directed by the Hon'ble Apex court as to meet the ends of justice.

The respondent have seriously suffered and affected due to the inordinate delay caused by the petitioners/ judgment-debtors as to dispose of the respondent above E.P. The above petition filed by the petitioners/ judgment debtors is an abuse of process of court and the same is untenable in law. In the above circumstances, it is just and necessary that this court may be pleased to dismiss the above application as devoid of merits with heavy exemplary costs to prevent the abuse of process of court and law and render justice to the respondent. Hence, petition may be dismissed with exemplary costs.

4. On perusal of affidavit, petition and the counter, the point for determination that arose for consideration is

Whether the application to deposit Rs. 3,00,000/- as part payment towards the E.P. amount is to be allowed or not?

5. Answer to the Point:

Heard both sides. Admittedly, the petitioner has to pay the decree

amount as per the decree passed by the Hon'ble High Court of Madras in 1st Appeal in A.S.No.130/2017. The Decree Holder is entitled to claim the decree amount. Therefore, he has filed an Execution Petition to sell the immovable property of the Judgment Debtors. In these circumstances, the 2nd Respondent/2nd Judgment Debtor is willing to make a payment of Rs. 3,00,000/- towards part satisfaction of the Decree amount. But the Decree Holder is not willing to receive the amount and refused to accept the same and insisting for the payment of the entire decree amount.

6. As per the order of the Hon'ble Supreme Court of India, Execution Petition has to be disposed within 6 months. In this circumstances, the Judgment Debtor is directed to make more payment towards Full Satisfaction in future. At present, no prejudice will be caused to the Decree Holder to permit the petitioner to deposit the amount of Rs.3,00,000/- into court deposit. Further, it is made clear that the Judgment Debtors are bound to make payment without any default in future. Accordingly, the petitioner/2nd Judgment Debtor is permitted to deposit the amount of Rs. 3,00,000/- into court deposit and the Decree Holder is entitled to withdraw the amount. The point is answered accordingly.

7. In the result, the petitioner/2nd Judgment Debtor is permitted to deposit the amount mentioned in the petition into court deposit and to make

further payment without any delay. Accordingly, this petition is allowed.

//This order has been dictated by me to the Stenographer, taken down, transcribed and typed by her in the computer, corrected and pronounced by me in the open Court on this the Friday the 19th day of September 2025//

Sd./- Pa.U.Chemmal
Principal District Judge,
Principal District Court,
Kancheepuram.

Exhibits and Witnesses on both side: NIL.

Sd./- Pa.U.Chemmal
Principal District Judge,
Principal District Court,
Kancheepuram.

Draft/Fair Order
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E.P.57/2022 in
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D.D. 19.09.2025
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