

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF,
AT KANCHEEPURAM.

PRESENT: Tmt.Fanny Rajan, B.A.,B.L.,(Hons),
Principal District Munsif, Kancheepuram.

On Monday, this the 13th day of July 2026

E.P. No. 26 of 2020

in

O.S.No. 110 of 2006

CNR No. TNKP08-000058-2019

1. Devaki (died)
2. Varadhan (died)
- 3.V. Senthilnathan
4. V. Thilagaqvathi
5. V.Raji
- 6.V. Kumar
- 7.V. Sudhakar

....Petitioners/Plaintiffs/Decree holders

/Versus/

- 1.Seethalakshmi
- 2.Srinivasan
- 3.Panneerselvam
- 4.Senthamarai

...Respondents/ Defendants/Judgment Debtors

This petition is coming on this day for final hearing before me on 06.06.2026
in the presence of M/s.R. Sureshkumar, K. Arunagiri learned counsels for the

Decree Holders and M/s. G. Ravikumar learned counsel for the Judgment debtors 1 to 4, upon hearing the rival submissions made by the learned counsel for the decree holder and the judgment debtor and on perusal of the records, having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order XXI Rule 35 and 151 of CPC to delivery and possession in the E.P. Schedule mentioned property to the Decree Holder and thus render justice.

2. CASE OF THE DECREE HOLDER: The Decree Holder has filed a suit for declaration and permanent injunction. The same was decreed in favour of the Decree Holder in OS No. 110/2006 on 24.09.2018 declaring that the suit property belongs to him, permanent injunction restraining the defendants from interfering with the possession and cost of the suit. Under such circumstances, this Execution petition is filed for delivery of possession.

3. CASE OF THE JUDGMENT DEBTORS: The respondent/judgment debtors had averred that the EP is not maintainable as the appeal in A.S.No.3 of 2020 is pending before the Hon'ble Principal Subordinate Judge at Kanchipuram and posted on 24.01.2024. There is no provision for delivery as per the decree in O.S. No. 110/2006. They would succeed in the appeal. Hence, the petition has to be dismissed.

4. **POINT FOR CONSIDERATION:** Whether the decree holder is entitled for the delivery and possession as prayed for or not?

5. No one is examined and no documents were exhibited on either side. Heard the submissions made by the learned counsel for decree holders and Judgment Debtors and also, perused the records including the written submissions filed by the learned counsel for the Judgment Debtors.

6. **Discussion and Findings:** This Court upon perusal of the material records and the pleadings, arguments finds that the decree in question emanates from the Judgment and Decree dated 24.09.2018 in O.S. No.110 of 2006. This court finds that the Judgment Debtors have claimed that A.S.No.3 of 2019 is filed and pending before the Hon'ble Principal Sub Court, Kancheepuram. However, it is noted that there is no stay to the Judgment and Decree dated 24.09.2018 in O.S. No.110 of 2006. Hence, there is no impediment to proceed with the Judgment and Decree dated 24.09.2018 in O.S. No. 110 of 2006 in the absence of any stay.

7. On merits, the main contention of the learned counsel for the Decree Holder is that the Judgment and Decree dated 24.09.2018 in O.S. No.110 of 2006 clearly declared him as the owner and protected his possession. Hence, the suit property has to be handed over to him. Thus, this EP for delivery. On the other hand, the learned counsel for the Judgment Debtor is that there is no decree for delivery and mere declaration of ownership would not entitle the Decree Holder to seek delivery.

Without a specific decree for recovery of possession, this Petition is not maintainable based on the declaration and permanent injunction decree.

8. This court finds that the Decree dated 24.09.2018 in OS No.110 of 2006 is as follows:

(i) முடிவில் வழக்கு சொத்து வாதிக்கு பாத்தியபட்டது என்று விளம்புகை செய்தும் இதன் மூலம் ஆணையிடப்படுகிறது.

(ii) வழக்கு சொத்தில் வாதியின் அமைதியான அனுபவத்திற்கு பிரதிவாதிகளோ அவர்களது ஆட்களோ எவ்வித இடையூறும் ஏற்படுத்தக்கூடாது என்று நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கி இதன் மூலம் ஆணையிடப்படுகிறது.

(iii) வழக்கு செலவுத் தொகையாக ரூ 80.50/- வாதிக்கு பிரதிவாதி செலுத்தவேண்டு மென்று உத்திரவிடப்படுகிறது.

9. This court considers the said contention and finds that the Decree Holder would be entitled to seek for delivery of possession of the suit property based on a decree declaring title and permanent injunction only when the possession was grabbed after the decree was passed. As per the well established principle of law, after a decree of declaration of title, if the possession is lost then there is no need to file a fresh suit for recovery of possession.

10. However, in this case, there is no single averment and evidence to indicate when the possession was taken over by the Judgment Debtors from the Decree Holder. The date of loss of possession is to this execution petition. Without the

material pleading regarding the date of loss of possession, this court finds that the Decree Holder cannot seek for recovery of possession. Having failed to establish their case falling under the exceptional circumstance mentioned hereinabove, this executing court cannot traverse beyond the decree of declaration of title and permanent injunction. Without an specific decree for recovery of possession, this court concludes that there is no merits in this petition and the same has to be dismissed. Thus the point for determination is answered against the decree holder.

11. Considering the nature of the suit and lack of malafides, this court considers that the parties shall bear their own costs.

Result:

In the result, this execution petition is dismissed. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 13th day of July 2026.

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM**

DECREE HOLDER SIDE WITNESSES & EXHIBITS:- Nil

JUDGMENT DEBTOR SIDE WITNESSES & EXHIBITS:- Nil

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM**