

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF**  
**AT KANCHIPURAM**

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

On Thursday, this the 26<sup>th</sup> day of March 2026

**EP No.71 of 2025**

**in**

**O.S. No. 76 of 2023**

**CNR.No.TNKP08-000301-2025**

Smt. K. Prabhavathi

...Petitioner/ Plaintiff/Decree holder

/Versus/

1.Muthulakshmi

2. K. Vignesh

... Respondents/Defendant/ Judgment Debtors

This petition having come on 12.03.2026 before me for final hearing in the presence of M/s. S.John, J. Josephsundar, A. Vanitha learned counsels for the Decree holder, the notice to the 1<sup>st</sup> judgment debtor is dispensed with and the 2<sup>nd</sup> Judgment debtor was set exparte on 17.11.2025, upon hearing the arguments made by the learned counsel for the Decree Holder and upon 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 Rules 37 and 38 of CPC for realization of the remaining sum of Rs.34,497.50/- due to the petitioner/ Decree Holder and

payment of the due amount with 6% interest for principal amount, failing which for arrest against 2<sup>nd</sup> respondent/J.D till realizing the decree amount in satisfaction of the petitioner/Decree holder.

**2.CASE OF THE DECREE HOLDER:** The Decree holder had filed O.S.No.76 of 2022 seeking for recovery of money. The same was decreed on 22.02.2023 directing the Judgment Debtor to pay Rs.29,150/- with future 9% interest pa from date of suit till date of decree on the principal Rs.17,000/- and at 6% from the date of decree till realization and cost of Rs.1888.50/-. In view of the failure of judgment debtor to pay the decree amount, the decree holder has come up with this petition.

3. On perusal of records, it is found that notice to the 2<sup>nd</sup> Judgment debtor was served and he had failed to appear. Hence, the 2<sup>nd</sup> judgment debtor was called absent set exparte on 17.11.2025. Whereas, as no relief is sought for against the 1<sup>st</sup> Judgment Debtor and the notice to her was returned as no such person. However, as no relief is sought against the 1<sup>st</sup> Judgment Debtor in this EP, the further notice to the 1<sup>st</sup> Judgment Debtor has been dispensed with.

**4. POINT FOR DETERMINATION:** Whether the Decree Holder is entitled for the arrest of the 2<sup>nd</sup> Judgment debtor?

5. Heard the submissions made by the learned counsel for decree holder. Also, perused the records. The Decree Holder is examined as PW1. No documentary

evidence has been let in by the Decree Holder. No oral or documentary evidence has been let in by the Judgment Debtors.

**6. Discussion and Findings:** The Decree Holder is having a valid decree in its favour for a sum of Rs.29,150/- with interest at 9% till date of decree on the principal Rs.17,000/- and at 6% interest from the date of decree till realization and cost of Rs.1,888.50/-. Thereby, a sum of Rs.34,497.50/- has accrued which resulted in filing of this petition. This court finds the Decree Holder is seeking to arrest the 2<sup>nd</sup> Judgment Debtor for non payment of the decree amount. No time period has been fixed for payment and therefore, the 2<sup>nd</sup> Judgment Debtor was due to pay the amount since date of decree on 22.02.2023.

7. Though the decree has been passed against the Judgment Debtors jointly and severally, the Decree Holder had chosen to file this EP for arrest against the 2<sup>nd</sup> Judgment Debtor only. The 1<sup>st</sup> Judgment Debtor being a female is exempt from arrest for recovery of money under Section 56 of the Civil Procedure Code. As per the well established principle of law, the Decree Holder is entitled to chose his mode of execution against any of the Judgment Debtors. The Decree Holder has chosen to file this EP for arrest against the 2<sup>nd</sup> Judgment Debtor only.

8. The Decree Holder examined as PW1 had filed his means evidence and stated the 2<sup>nd</sup> judgment debtor failed to pay the decree amount. The 2<sup>nd</sup> Judgment Debtor has movable and immovable assets worth over Rs.5,00,000/- and has a

monthly income of Rs.20,000/-. But still he had not chosen to honour the decree amount. Therefore, this Court is of the considered view that, unless the 2<sup>nd</sup> judgment debtor is arrested, decree holder would not reap out the fruits of the decree.

9. Further, the 2<sup>nd</sup> Judgment Debtor has failed to turn up before this Court and to state whether they have preferred any Appeal or Revision against the decree dated 22.02.2023. Therefore, this Court is under the reasonable presumption **under Section 119 of the Bharathiya Sakshya Adhiniyam** that no Appeal or Revision is preferred by the judgment debtors. Since, the decree holder is having a valid decree and inspite of having sufficient means to pay, judgment debtor failed to comply with the Judgment and Decree in O.S.No.76 of 2022 dated 22.02.2023. Therefore, in order to reap out the fruits of the decree, this Court is inclined to allow this petition. Thus, the point for determination is answered in favour of the decree holder.

**Result:**

In the result, for the foregoing reasons, this Execution Petition is hereby allowed by ordering arrest of the 2<sup>nd</sup> judgment debtor on or before 29.06.2026, on payment of batta in a week. Call on 29.06.2026.

**PRINCIPAL DISTRICT MUNSIF  
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**DECREE HOLDER SIDE WITNESSES:-**

**PW 1 - K. Prabavathi**

**DECREE HOLDER SIDE EXHIBITS:- NIL**

**JUDGMENT DEBTORS SIDE WITNESSES: NIL.**

**JUDGMENT DEBTORS SIDE EXHIBITS: NIL.**

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