

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

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

**On Tuesday, this the 24<sup>th</sup> day of March 2026**

**E.P. No.89 of 2025**

**in**

**O.S.No. 278/2016**

**CNR No. TNKP08-000348-2025**

S. Gayathri

..Petitioner/Plaintiff/ Decree holder

/Versus/

A. Kala

...Respondent/Defendant/ Judgment Debtor

This petition is coming on this day for final hearing before me on 17.03.2026 in the presence of M/s. P. Sugapriyan learned counsel for the Decree Holder and Judgment Debtor was set exparte on 12.03.2026, 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 21 Rule 35 and section 151 of CPC to order delivery of the vacant possession of the property more fully described in the schedule below.

### **CASE OF THE DECREE HOLDER:**

2. The Decree Holder filed O.S No. 278/2016 before this court seeking to evict the Judgment Debtor from the petition premises. The Decree Holder is the landlord and judgment debtor was tenant. This Court passed an Decree dated 09.01.2023 directing the Judgment Debtor to quit and deliver the vacant possession of the suit property to the plaintiff within 3 months, pay arrears of rent at Rs.2000/- per month for September and October 2016 and Rs.500/- towards damages from 01.11.2016 till vacating the premises and cost of Rs.1,962/- to the Plaintiff. However, as the judgment debtor failed to vacate the premises as per the said Order and decree, the decree holder has come up with this petition.

3. Upon perusal of records it is noted that the notice to the Judgment Debtor was served and he failed to appear. Hence, he was called absent and set exparte on 12.03.2026.

4. **POINT FOR CONSIDERATION:** Whether the decree holder is entitled for the relief of vacant possession of petition premises?

5. No one is examined and no documents were exhibited on either side. Heard the submissions made by the learned counsel for decree holder and also, perused the records.

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 09.01.2023 in O.S.No.278 of 2016. A thorough perusal of the Decree would indicate that this Court had ordered for the eviction of the Judgment Debtor and handing over possession in 3 months. Admittedly, the time period granted had lapsed and the Judgment Debtor had not vacated the premises.

7. This court understands from the available materials on record that there is no appeal or proceedings pending questioning the validity or illegality of the Judgment and Decree dated 09.01.2023 in O.S.No.278 of 2016. Even the Judgment Debtor has failed to appear and produce any details regarding the appeal and stay of this decree sought to be executed. This court is of the considered view that the onus is upon the Judgment Debtor to establish that the

Judgment and Decree dated 09.01.2023 in O.S.No.278 of 2016 is not binding upon him, by filing an appropriate appeal.

8. There is no material on record to substantiate any proceedings questioning the validity or legality of the Judgment and Decree dated 09.01.2023 in O.S.No.278 of 2016 or stay of the same. Further, there is no single material on record or evidence to substantiate the diligent efforts exercised by the Judgment Debtor to set aside the said Judgment and Decree dated 09.01.2023. This Court on perusal of records finds that there is no stay order or details regarding any appeal regarding the Judgment and Decree dated 09.01.2023 in O.S.No.278 of 2016.

9. This court opines that in the absence of any material regarding the stay or appeal, there is no impediment to proceed with this Petition. Therefore, this Court is of the considered view of that the Judgment and Decree dated 09.01.2023 in O.S.No.278 of 2016 is the still binding on the judgment debtor. Hence in the interest of justice and for providing an opportunity to the Decree Holder to enjoy 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, this execution petition is hereby allowed. Delivery of the petition property by the Senior Bailiff of this Court on or before 24.06.2026, on payment of batta in 3 days. Call on 24.06.2026.

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 24<sup>th</sup> day of March 2026.

**PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM**

**DECREE HOLDER SIDE WITNESSES & EXHIBITS:- Nil**

**JUDGMENT DEBTOR SIDE WITNESSES & EXHIBITS:- Nil**

**PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM**