

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 18th day of March 2026

E.A. No. 10 / 2025

In

E.P. No. 5 / 2014

In

R.C.O.P. No. 8 / 2009

1. C. Murugeswari,
D/o. Chithambaram
2. R. Vasanthakumar,
S/o. Late. P. Ravi
3. R. Viswa,
S/o. Late. P. Ravi

---- Petitioners / Claimants

//Versus//

1. P. Arumugam,
S/o. Pandiyanpillai
2. C. Arumugammal,
W/o. Late. Chithambarampillai,
3. Late. C. Muthupandi (Died)
4. C. Mariselvam,
W/o. Late. Chithambarampillai
5. M. Lakshmi,
W/o. Late. C. Muthupandi

---- R1 / DH

6. Minor. M. Anushka,
W/o. Late. C. Muthupandi
(Rep. by the 5th respondent)

---- **R2 to R6 / JD's**

This petition was filed before this Court on 24.09.2025 coming before me for final hearing on 18.03.2026 Advocate Thiru. M. Thiyagarajan appeared for Petitioners, Advocate Thiru. B. Venkatesh appeared for the 1st Respondent / Decree Holder. R2 to R6 / Judgment Debtors set ex – parte on 14.10.2025. Upon perusing the available material records and upon hearing the arguments on both sides, today this Court has delivered the following....

ORDER

1. This petition was filed under order. 21 rule 7 to 101 and sec.151 of C.P.C. to implead the petitioners as the parties to the main EP. No.5 of 2014 and to decide the rights of the petitioners in the petition property with costs.

2. **Petition averments in brief:**

i) The relevant fact of the petition was that the petitioners were residing in the EP. No.5 of 2014 schedule mentioned property, which was filed to execute the judgment passed by this court in R.C.O.P. No. 8 of 2009 against the 2 to 6 respondents / judgment debtors herein. Only when the respondent / decree holder was mentioning as court amin was to come to take delivery, the above E.P. proceeding came to the knowledge of the petitioners / claimants at present. Despite our long-standing residence and continuous possession of the ground floor of the petition property, the 1st respondent / D.H. proceeded to file the main R.C.O.P. petition and the subsequent execution proceedings without disclosing the petitioners possession.

ii) In R.C.O.P. No.08 of 2009, wherein the 1st respondent obtained an eviction decree, the said petition was filed seeking eviction of respondents 2 to 6 / judgment debtors from the petition property. Further the decree holder, in collusion with the said respondents, initiated and prosecuted the proceedings. In support of our claim of possession even prior to

the decree holder's alleged purchase of the property, it is pertinent to state that the decree holder had borrowed a sum of Rs. 55,000/- from the petitioners to compensate his debt from the 2nd respondent and executed a promissory note acknowledging the same. In this regard, the petitioners have also filed a separate suit against the decree holder before this court in O.S. No.92 of 2009.

iii) Further the respondent / D.H. obtained orders in both the Rent Control Petition and the Execution Petition without impleading us as necessary parties, despite being aware of the petitioners possession and interest in the property. The petitioners / claimants came to know the proceedings of E.P. No. 5 of 2014 only at present through the E-Courts portal. The main E.P. was filed by the 1st Respondent/ Decree Holder to execute the decree in R.C.O.P. No. 8 of 2009 against the respondents 2 to 6 / judgment debtors. The petitioners have been in long possession and enjoyment of the ground floor of the petition property. However, suppressing this material fact, the 1st respondent initiated both the Rent Control Petition and the execution proceedings without impleading the petitioners. Thus the present petition was filed to implead the petitioners in the main E.P. and to decide the rights of the petitioners in the schedule mentioned property.

3. **Counter averments in brief: (Counter filed EA. No.12 of 2025 adopted as counter)**

i. The 1st respondent in his counter had denied entire averments of the petition and contended that the petitioners were not residing the E.P. mentioned property. The claimant / 1st petitioner was also a witness who signed the sale deed for the schedule of property in favor of this Decree Holder. Further the petitioner after knowing that the Decree Holder had purchased the petition property in the year 2006, the petitioner had already filed a suit against this 1st respondent in O.S. No.92 of 2009. In the main E.P. the petitioners / claimants were not to be added as parties and as they have no scope of adjudication in execution of the judgment passed in R.C.O.P. No. 08 of 2009 as the Hon'ble Supreme Court has held that the third parties unrelated to the judgment debtor had no locus stand in execution for delivery of possession in any E.P. proceedings.

ii. Further the E.P. schedule mentioned property previously belonged to the mother of the petitioners / claimants. Later it was purchased by the 1st respondent on 19.06.2006 and the 1st claimant was a witness to the sale deed. Thereby the petitioners did not have any right over the E.P. mentioned property. Thereafter the mother of the 1st claimant entered into an oral tenancy agreement with the 1st respondent. During her life time the mother of the 1st claimant did not execute any documents to show the right of the petitioners / claimants over the EP mentioned property. Thus this petition was only filed to delay the E.P. proceedings and thereby the petition is liable to be dismissed.

4. The Respondents 2 to 6 / Judgment debtors were set ex-parte in this proceedings.

5. The petitioners to prove their case had examined Pw.1 to Pw.3 and further marked Ex.P.1 to 27; Ex.P.1 was the Family Card, Ex.P.2 to 4 were the Aadhar card of 1 to 3 petitioners, Ex.P.5 was the Voter ID card of the 1st petitioner, Ex.P.6 was the Installment receipt, Ex.P.7 was the Savings Account Book, Ex.P.8 was the Employment Card of the 2nd petitioner, Ex.P.9 was the Income Certificate, Ex.P.10 was the TNPSC Application, Ex.P.11 was the Gas receipts, Ex.P.12 was the judgment in O.S. No.92 of 2009 dated 10.03.2017, Ex.P.13 was the Insurance Policy Bond, Ex.P.14 was the postal cover, Ex.P.15 was the Welfare Board Certificate, Ex.P.16 was the Welfare Board Id card, Ex.P.17 and 18 were the Driving licenses of 2nd and 3rd petitioners, Ex.P.19 to 21 were the Pan card of 1 to 3rd petitioners, Ex.P.22 and 23 were the Voter id cards of the 2nd and 3rd petitioners, Ex.P.24 was the Aadhar card of Selvakumar, Ex.P.25 was the Promissory note, Ex.P.26 was written statement in O.S. No.92 of 2009, Ex.P.27 was the deposition in O.S. No.92 of 2009.

The respondents did not let in any evidence in this proceedings.

6. Point for determination: *Whether the petitioners are entitled to implead in the main E.P. and whether the petitioners have any right in the petition schedule property?*

i. Heard both sides, records perused.

ii. According to the arguments of the learned petitioner council, the petitioners were residing in the E.P. petition mentioned property even before the 1st respondent / decree holder had purchased the suit property. But the decree holder had filed the main RCOP and the E.P. against the mother and the two brothers of the 1st petitioner and was trying to evict these petitioners unlawfully by depriving their rights. The petitioners had proved their rights by filing necessary evidence hence the petition may be allowed. During arguments the petitioner council relied upon the judgments in AIR 1996 SC 2102 and 2024 (4) CTC 354.

iii. The learned respondent counsel argued as, the 1st petitioner went away to her matrimonial home after her marriage. The other two petitioners were her sons. They had filed this frivolous petition without any right in the suit property only to delay the delivery of the property. This petition was filed without any merit and may be dismissed.

iv. Admittedly the petitioners were not parties to the main RCOP and the E.P. petition. The E.P. petition was pending for delivery at that time the present petition was filed by these petitioners. The 1st respondent was the decree holder. The 2 to 4 respondents were the mother and brothers of the 1st petitioner. The E.P. was filed for a house building in natham land of 170sq.ft.

v. The petitioners claim as they were in possession and enjoyment of the schedule mentioned property. To prove the petitioners claim they have examined Pw.1 to 3 and had marked Ex.P.1 to 27. The Pw.1 to 3 had deposed in accordance to the petition but possession and enjoyment cannot be proved through oral evidence. Hence this court delves into the petitioner side documentary evidence. Among the petitioners documents;

Ex.P.1 was the Family Card, Ex.P.2 to 4 were the Aadhar card of 1 to 3 petitioners, Ex.P.5 was the Voter ID card of the 1st petitioner, Ex.P.6 was the Installment receipt, Ex.P.7 was the Savings Account Book, Ex.P.8 was the Employment Card of the 2nd petitioner, Ex.P.9 was the Income Certificate, Ex.P.10 was the TNPSC Application, Ex.P.11 was the

Gas receipts, Ex.P.13 was the Insurance Policy Bond, Ex.P.14 was the Bank Cover, Ex.P.15 was the Welfare Board Certificate, Ex.P.16 was the Welfare Board Id card, Ex.P.17 and 18 were the Driving licenses of 2nd and 3rd petitioners, Ex.P.19 to 21 were the Pan card of 1 to 3rd petitioners, Ex.P.22 and 23 were the Voter id cards of the 2nd and 3rd petitioners, on perusal of above documents, it shows the documents were not documents of title or possession but can prove the suit property was shown as the residential address of the petitioners. But it alone cannot create any right to the petitioners in the schedule property.

Ex.P.24 was the Aadhar card of Selvakumar, the aadhar card of third party witness. This document was not relevant to the facts in issue.

Ex.P.12 was the judgment in O.S. No.92 of 2009 dated 10.03.2017, Ex.P.25 was the Promissory note, Ex.P.26 was written statement in Os. No.92 of 2009, Ex.P.27 was the deposition in Os. No.92 of 2009, the above documents shows the 1st petitioner had already filed a money suit against the 1st respondent / decree holder and it was dismissed. Hence the petitioners cannot claim any monetary claim towards the property in this proceeding. Also the details of the main RCOP was disclosed in the Ex.P.26 written statement and it was reflected in the judgment marked as Ex.P.12. Thus the above written statement and judgment passed in O.S. No. 92 of 2009 shows that the details of main RCOP was already disclosed in the above suit proceeding in 2009 itself. In such case the present 1st petitioner being the sole plaintiff in the suit O.S. No. 92 of 2009 cannot deny that she was not aware of this main R.C.O.P. proceeding.

vi. Further the 1st petitioner was examined as Pw.3. During court questioning made to Pw.3. she had deposed as;

“நீதிமன்ற கேள்வி – வழக்குச் சொத்து யாருக்கு பாத்தியப்பட்டது என்றால் எனது அம்மாவிற்கு பாத்தியப்பட்ட சொத்து. எனது அம்மாவின் சொத்து என்பதால் நான் வழக்குச் சொத்தில் குடியிருக்கிறேன். இந்த வழக்கு நடக்கும் விவரம் 2006லிருந்து எனக்குத் தெரியும்”

Thus according to the 1st petitioner – Pw.3, she contend to claim the petition property as her mother’s property and she knows about the litigation since 2006. But admittedly the 1st petitioner’s mother was a party to the main R.C.O.P., it was ordered against the 1st petitioner’s mother and she was a judgment debtor in the main E.P. in which delivery was ordered. In such scenario as in previous proceedings the 1st petitioners mothers rights were already decided and she was directed to evict the suit premises, the 1st petitioner cannot claim any right under her mother. The 1st petitioner though contend that she was claiming the E.P. property as it belong to her mother, admittedly main RCOP and EP were ordered against her mother. The issue of the 1st petitioner’s mother’s right in the E.P. property was already decided. Other than the petitioner’s claiming right under the 1st judgment debtor, they did not raise any other claim in the main petition. Hence the 1st petitioner do not have any right in the petition property as it do not belong to her mother – the 1st judgment debtor.

vii. Moreover the 1st petitioners mother was arrayed as a tenant in the main RCOP and she was ordered to evict the property. But in the present petition the petitioners claim their right as the property belong to their mother – the 2nd respondent / judgment debtor. To decide this issue, this court had to extract the definition of tenants under the old, Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as the main RCOP was decided under the said act;

“(8) Tenant means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son, or daughter, or the legal representative of a deceased tenant who-

(i) in the case of residential building, had been living with the tenant in the building as a member of the tenant's family up to the death of the tenant, and.....”

Thus according to the act, the daughter of the tenant and the member of family of the tenants were included as tenants. As already R.C.O.P. was ordered against the mother and brothers of the 1st petitioner, the order of eviction is binding on the petitioners as they claim to be living under their mother in the E.P. property.

viii. Further this petition was filed on the main ground that the E.P. proceeding came to the knowledge of the petitioners only when the decree holder attempted to take delivery by the court amin. This contention of the petitioners cannot be accepted as the pendency of the main RCOP was already disclosed in the suit filed by the petitioners in O.S. No. 92 of 2009. Since the petitioners claim right in the petition property of 170sq.ft. they cannot claim to be ignorant about the pending RCOP and its continuing E.P. regarding the property. The petitioners cannot plead their ignorance about the pending E.P. only on the ground they were not party to the proceeding.

ix. On the other hand the 1st respondents contention was that the petitioners were not residing in the E.P. property and the 1st petitioner had signed as a witness in the sale deed that was executed for the E.P. property in favor of the decree holder. But the 1st respondent / decree holder except cross examining Pw.1 and 2, did not let in any proof to prove his contentions.

x. From the above discussions, it is clear that the petitioners had only raise flimsy grounds to file this petition to claim right in the E.P. schedule property without any valid contention and documents. Hence this court concludes that this petition was filed only to delay the delivery in main E.P. thereby it shall be disposed with exemplary cost.

7. ***In the result***, this petition is dismissed with cost of Rs.20,000/-. Cost shall be payable to the respondent / decree holder within 15 days after the expiry of the appeal period.

Order dictated to the Stenographer and computerized, error checked and pronounced in the open court on 18th day of March 2026.

District Munsif,
Vadipatti.

1. Petitioners side witness:

Pw.1 – Vasanthakumar

Pw.2 – Selvakumar

Pw.3 - Murugeswari

2. Petitioners side documents:

Ex.P.1	Family Card
Ex.P.2	Aadhar card of 3 rd petitioner
Ex.P.3	Aadhar card of 1 st petitioner
Ex.P.4	Aadhar card of 2 nd petitioner
Ex.P.5	Voter id card of 1 st petitioner
Ex.P.6	Installment receipt
Ex.P.7	Savings Account Book
Ex.P.8	Employment Card of the 2 nd petitioner
Ex.P.9	Income Certificate
Ex.P.10	TNPSC Application
Ex.P.11	Gas receipts
Ex.P.12	Judgment in O.S. No.92 of 2009 dated 10.03.2017
Ex.P.13	Insurance Policy Bond
Ex.P.14	Postal Cover
Ex.P.15	Welfare Board Certificate
Ex.P.16	Welfare Board Id card
Ex.P.17	Driving license of 2 nd petitioner
Ex.P.18	Driving license of 3 rd petitioner
Ex.P.19	Pan card of 1 st petitioner
Ex.P.20	Pan card of 2 nd petitioner
Ex.P.21	Pan card of 3 rd petitioner
Ex.P.22	Voter id of 2 nd petitioner
Ex.P.23	Voter id of 3 rd petitioner
Ex.P.24	Aadhar card of Selvakumar
Ex.P.25	Promissory note
Ex.P.26	Written statement in O.S. No.92 of 2009
Ex.P.27	Deposition in O.S. No.92 of 2009

3. Respondents side witness and documents: Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

EA. No.10/2025

In

EP. No.5 of 2014

In

RCOP. No.8 of 2009

Date : 18.03.2026