

IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM**Present: Selvi. T. Naveena B.com, LL.B (Hons.),****District Munsif,****Kumarapalayam.**Wednesday the 24th day of June 2026**E.A.No.01/2026****IN****E.A.No.02/2022****AND****EA 02/2026****IN****E.P No.05/2021**

1. Kolandhan (Died)

2. Pappathi

3. K.Thavasiappan

4. K.Kandasamy

...

Petitioners/Decree Holders

/Vs/

1. Gopal (Died)

2. Ramesh

3. Chinnathambi

...

Respondents/Judgment Debtors

This petition came for final hearing before this court on 17.06.2026 in the presence of Thiru. S. Shanmugam, Advocate for the Petitioners/Decree Holders and Thiru. B. Mohan, Advocate for the 2nd and 3rd Respondents/ 2nd and 3rd Judgment Debtors and the 1st Respondent/ 1st Judgment Debtor died on 04.03.2026 after he was set exparte and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

COMMON ORDERS

The petitions have been filed under Order VI Rule 17 r/w Section 151 of Code of Civil Procedure.

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The 1st respondent had not produced any documents or witnesses as mentioned in written statement filed on 13.02.2012 and 28.08.2015. The respondents 1 to 3 have not filed any appeal against the judgement and decree passed dated 29.11.2019 till date. The respondents have been causing wanton delay in the proceedings of the present execution petition for the past 5-½ years. The respondents 2 and 3 have no right over the 2nd item of petition properties. The 1st respondent named Gopal had died during the pendency of E.A.No:2/2022 in E.P.No:5/2021 on 04.03.2026. Since the respondents 2 and 3 are already parties to the above execution petition, the petitioner prayed the court allow the petitioner to mention the death of the 1st respondent alone in E.A.No:2/2022.

2. BRIEF FACTS OF THE COUNTER STATEMENT FILED BY THE 2ND RESPONDENT AND ADOPTED BY THE 3RD RESPONDENT WOULD RUN AS FOLLOWS:

The respondents 2 and 3 have denied all the averments stated by the petitioners except those admitted as true. The petition property is an immovable property. The legal heirs of the deceased 1st respondent is Anitha, Chithra, Suresh, Ramesh and Chinnathambi, of which only 2 people are parties to the abovesaid execution petition. The other legal heirs of the 1st respondent are necessary parties to the above E.P. but the petitioners have filed the above petition to mention the death of the 1st respondent alone without impleading his legal heirs and thus, the above petition is liable to be dismissed.

3. **ISSUES:** Whether or not the execution petition be amended as prayed?

4. **DISCUSSION:**

Heard. Records perused. The above execution petition in E.P.No:5/2021 has been filed by the petitioner for the delivery of possession of the petition properties. The petition in E.A.No:2/2022 has been filed by the petitioner seeking permission of the court to break open the house in the 2nd item of petition property. The present petition has been filed by the petitioner to mention about the death of the 1st respondent, who had died during the pendency of the present petition. The contention of the petitioner is that the legal heirs of the 1st respondent are already parties to the present petition as respondents 2 and 3. The contention of the respondents is that there are other 3 legal heirs to the 1st respondent except the respondents 2 and 3 and that the petitioner ought to have impleaded them to the above petition.

From the perusal of records, this court observes that the petitioners have obtained the decree in the above suit that the petitioners are entitled to the title to the 2nd item of petition property and that the respondents shall vacate the petition property and to deliver possession within 6 months from the date of decree. It is further observed by this court had declared the petitioners to be the absolute owner and that the respondents to be in permissive possession of the 2nd item of the petition property given by the petitioners. In the present petition, when the petitioners have alleged that the legal heirs of the 1st respondent are already parties to the present petition, the respondents have alleged that Anitha, Chithra, Suresh and the

respondents 2 and 3 are the legal heirs of the deceased 1st respondent. Since this court had found the respondents 1 to 3 to be in permissive possession of the 2nd item of the suit property and has decreed the suit directing the respondents 1 to 3 to vacate the 2nd item of the suit property and to deliver possession of the same to the petitioners, the decree is executable only against the respondents 1 to 3. The rights of the parties have already been conclusively determined under the decree and the present execution petition has been filed only to execute the said decree. It is observed that the respondents have not established the existence of any other independent right or interest for the other legal heirs of the 1st respondent or that their presence is required for deciding the above execution petition.

Therefore, from the foregoing discussions, since the court has passed a decree against the respondents 1 to 3, who had been in permissive possession in the 2nd item of the petition property and since the 2nd and 3rd respondents, who are admittedly legal heirs of the deceased 1st respondent, are parties to the petition and the decree is enforceable against them, this court is of the opinion that for the execution of the decree passed in the above suit, the impleadment of all the legal heirs of the deceased 1st respondent is not necessary. Hence, the other legal heirs of the deceased 1st respondent need not be impleaded as parties to the above petition and mentioning of the death of the 1st respondent is sufficient to proceed with the execution of the above decree.

5. RESULT:

In the result, The petitions are ALLOWED. No costs.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 24th day of June 2026.

District Munsif,
Kumarapalayam.

PETITIONER SIDE DOCUMENTS:

Nil

RESPONDENT SIDE DOCUMENTS:

Nil

District Munsif,
Kumarapalayam.

Fair Orders

E.A. No: 1/2026 IN

E.A.No:02/2022

AND

E.A.02/2026 IN

E.P. No: 05/2021

Dated: 24.06.2026