

**IN THE COURT OF THE DISTRICT MUNSIF/RENT CONTROLLER OF
UDHAGAMANDALAM, THE NILGIRIS**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF/RENT CONTROLLER, UDHAGAMANDALAM.

Tuesday, the 09th day of June 2026

E.P. No. 05 of 2026
(C.N.R. No. TNNS030 - 00039 - 2026)

in
R.L.T.O.P. No. 01 of 2025

Subramani

... Petitioner/Decree Holder

/Vs/

Rajesh

... Respondent/Judgment Debtor

This petition came on 04.06.2026 for final hearing before me in the presence of Mr. Puneeth K.G., learned Counsel for the Petitioner/Decree Holder and of Mr. Srihari, learned Counsel appearing for the Respondent/Judgment Debtor, upon hearing both sides and carefully considering the petition, counter statement and other connected material papers on records, this court passes the following:

ORDER

1. This Execution Petition has been filed under Order XXI Rule 35 of the Code of Civil Procedure, seeking delivery of vacant possession of the petition schedule property to the petitioner/decreed holder and, in default, delivery of the same

through due process of Court.

Gist of Petition:

2. The case of the petitioner is that a final order was passed in his favour and against the respondent in R.L.T.O.P. No. 01 of 2025 on 09.04.2025 by the learned District Munsif-cum-Rent Controller, Udhagamandalam, directing the respondent to vacate and hand over vacant possession of the petition premises to the petitioner. It is stated that no appeal has been preferred against the said final order. As per the decree, the respondent was required to vacate and deliver possession of the petition premises on or before 06.06.2025. However, despite the expiry of the stipulated period, the respondent failed to comply with the order. Hence, the present Execution Petition has been filed seeking delivery of possession through Court.

Gist of Counter Statement:

3. The respondent has filed a counter statement contending that the Execution Petition is false, frivolous, vexatious and not maintainable either in law or on facts. According to the respondent, he has been running a garment business under the name and style of “Jothi Textiles” at Commercial Road, Ootacamund, for more than thirty years and has been using the petition schedule property as a godown for storing garments. It is further contended that the godown does not bear any specific name and that the description of the petition schedule property has been incorrectly stated in the Execution Petition.

4. The respondent further submits that immediate eviction from the petition schedule premises would cause severe hardship to him, as he is presently carrying on his garments business and is unable to secure an alternative premises immediately. According to him, eviction would seriously affect the functioning of his business.

Therefore, he seeks indulgence of this Court to permit him to continue in occupation of the petition schedule property for a period of two years, during which he undertakes to identify and secure a suitable alternative premises. He further assures the Court that upon securing such premises, he would peacefully vacate and hand over possession of the petition property. Hence, he prays for grant of two years' time to vacate the premises.

Points for Determination:

5. Heard the submissions made by the learned counsel appearing on either side. The Execution Petition, counter statement and the records available on file have been carefully perused. The point that arises for consideration is: *"Whether the petitioner/decreed holder is entitled to delivery of possession of the petition schedule property through Court process?"*

Discussion:

6. A perusal of the records reveals that a final order was passed by this Court in R.L.T.O.P. No. 01 of 2025 on 09.04.2025, whereby the petition was allowed and the respondent was directed to vacate and hand over vacant possession of the petition premises to the petitioner on or before 06.06.2025. The respondent was also directed to pay a sum of Rs.495/- towards costs. The existence of the said order is not disputed by the respondent. Further, the respondent has neither pleaded nor produced any material to show that an appeal has been preferred against the said order. A verification of the Court records also discloses that no appeal has been filed challenging the final order dated 09.04.2025. Therefore, the order has attained finality and is binding on the parties.

7. The principal objection raised by the respondent is that he requires two years' time to vacate the premises on account of difficulties in securing an alternative godown for storage of garments. However, this Court, while exercising jurisdiction as an executing Court, cannot travel beyond the terms of the decree or grant any relief inconsistent with the decree sought to be executed. The final order in R.L.T.O.P. No. 01 of 2025 specifically directed the respondent to vacate and hand over possession on or before 06.06.2025. Therefore, this Court has no jurisdiction to enlarge the time granted under the decree or to permit the respondent to continue in occupation contrary to the terms of the order.

8. Even otherwise, it is seen that the decree was passed on 09.04.2025 and the present Execution Petition came to be filed only on 02.04.2026, nearly one year thereafter. During this considerable period, the respondent had sufficient opportunity to identify and secure alternative premises. Hence, the reason assigned by the respondent for seeking further time is not acceptable either in law or on facts.

9. The respondent has also contended that the description of the property is incorrect and that the godown bears no specific name. This objection cannot be entertained at the stage of execution. The respondent admittedly states that he has been using the petition schedule premises as a godown for storing garments belonging to his business, namely "Jothi Textiles", situated at Commercial Road, Ootacamund. Therefore, there is no ambiguity regarding the identity of the property. Furthermore, no such objection appears to have been raised before the Rent Controller during the trial proceedings in R.L.T.O.P. No. 01 of 2025. The description of the property furnished in the present Execution Petition is in consonance with the description contained in the final order sought to be executed. Consequently, this objection is devoid of merit and liable to be rejected.

10. Thus, it stands established that the final order passed in R.L.T.O.P. No. 01 of 2025 has attained finality, that the respondent has failed to vacate the premises despite the decree and the lapse of the stipulated period, and that there exists no legal impediment for execution of the decree. Accordingly, the petitioner/decreed holder is entitled to delivery of possession of the petition schedule property through Court process.

11. In view of the above findings, this Court is inclined to allow the Execution Petition. Since the respondent has failed to comply with the decree even after expiry of the time granted therein, the petitioner is also entitled to the costs of the present execution proceedings.

Result:

12. *In the result, this Execution Petition is allowed with costs.*

(a) *The petitioner/decreed holder is entitled to delivery of possession of the petition schedule property as described in the final order passed in R.L.T.O.P. No. 01 of 2025 dated 09.04.2025.*

(b) *Issue delivery warrant for handing over possession of the petition schedule property to the petitioner/decreed holder through due process of Court in accordance with law.*

(c) The petitioner/decreed holder shall also be entitled to the costs of this Execution Petition.

Dictated by me to the Steno - typist, transcribed by her on computer, corrected and pronounced by me in open court, on this the 09th day of June 2026.

**District Munsif/Rent Controller,
Udhagamandalam.**

Draft/Fair Order:

**E.P. No. 05/2026
in
R.L.T.O.P. No. 01/2025**

Dated: **09.06.2026**

**District Munsif Court,
Udhagamandalam.**