

**IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF, GUDALUR,
PRESENT: THIRU. P. MURUGESAN, B.L.,
ADDITIONAL DISTRICT MUNSIF, GUDALUR.**

(Thiruvalluvar Aandu 2056, Visuvavasu Varudam, Purattasi Thingal 28th day)

Tuesday 14th day of October 2025.

E.A.No.01/2025

in

E.P.No.09/2017

1) Sudhagaran(Since deceased)	. . . Petitioner/Decree Holder
2) K. Thangamani	
3) M.S.Ajesh	
4) M.S.Deepa	
5) M.S.Archana	. . . Proposed petitioners/Decree holders
	/Versus /
Prakash Chandran	. . . Respondent/Judgment Debtor

This petition has been taken on file on 29.07.2025 and coming before me for final hearing on 07.10.2025 in the presence of Learned Advocate Tr.V.S.Issac for the Petitioner/Decree Holder and Proposed Petitioners/Decree Holders and Learned Advocate Tr.T. Mathew for the Respondent/Judgment Debtor and upon hearing both sides and perusing records and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed by the Petitioner/Decree Holder Under Section 50 of CPC prays to impleaded the Petitioners/Proposed Decree Holders 2 to 5 as legal representatives of the deceased 1st Petitioner/Decree Holder as Petitioners 2 to 5 in the above Execution petition petitioner and thus render justice.

2.THE BRIEF AVERMENTS OF PETITION :-

1st Petitioner/Decree Holder died on 10.04.2025, Maradi Erumad at our residents due to old age. Deceased Decree holder's wife and children of the petitioner/decreed holder name to be added 1) K. Thangamani, W/o. Sudhagaran

2)M.S.Ajesh, S/o.Sudhagaran 3) M.S.Deepa, D/o. Sudhagaran, W/o.Anilkumar
 4) M.S.Archana, D/o. Sudhagaran, W/o.K.M.Sanojas petitioner/decreed holder as they are the legal heirs. While the above petition is pending before this court legal heirs of the petitioner/decreed holder has to added to proceed with the above execution petition, to avoid further complication in future. If the petition is not allowed we will be put to irreparable loss and injury. Hence this petition is filed.

3.THE BRIEF AVERMENTS OF COUNTER :-

i). This petition U/s 50 of CPC filed by the proposed petitioners/decreed holders to implead the legal heirs of decreed holder Mr.Sudhagaran is not maintainable as per the section 50 of CPC. The CPC section 50 stated that where a judgment debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the court which passed it to execute the same against the legal representative of the deceased. So the section 50 of CPC deals to implead the legal heirs of deceased judgment debtor but not to implead the legal heirs of judgment decreed holder.

ii). As per the memo filed by the counsel of the petitioners mentioned that the decreed holder Mr.Sudhagaran was died on 10.04.2025. The abatement period of 90 days completed on 10.07.2025. but the memo was filed on 14.07.2025. The subsequent impleading petition also was filed on 21.07.2025. So the petition was filed after lapse of 10 days from the general abatement days of 90 days.

iii). The written agreement dated 30.06.1994 was entered in between the petitioner and the respondent was for making a common 12 ft width mud road through the entire land of respondent only for an extent of 15 cents and connecting to the land of petitioner and which is to be used for both petitioner and the respondent at present and in future with equal right and enjoyment forever and also the other users of the same as 3 ft path way at present. That facts are emphatically reveals in Exhibit A1 and the B1 in O.S.No.42/1998, the parent suit of E.P.9/2017. These facts are never mentioned in any paragraph or in the total recital portion of draft sale deed already submitted by the deceased petitioner decreed holder before this court.

iv). The true facts mentioned in Exhibit A1 and the B1 in O.S.No.42/1998, the parent suit of the E.P.9/2017 may be not be known to the proposed petitioners since they are not a party in that agreement. So that fact to be known to proposed petitioners to seeking further proceeding of this through impleadment petition as petitioners. Apart from the advance sale agreement of Rs.15,000/- the agreed balance sale agreement amount of Rs.46,500/- has not paid till date. At the time of written advance agreement dated 08.06.1994 the petitioner admitted to pay Rs.4100/- per cent to the respondent. So for 15 cents he has to pay $4100 \times 15 = 61500/-$ in that amount the petitioner has paid only 15,000/- till date to the respondent.

v). In the 5th para of draft sale deed which was filed by the deceased petitioner it is mentioned as, that “to hold the same unto the purchaser as absolute owner for ever free from all encumbrances, claim and demand” this recital is amount to total violation of the intention to make and enter in to an agreement in between the petitioner and the respondent for making a 12 feet width mud road in the whole extent of 15 cents of land which is owned to the respondent for the use of both petitioner and respondent forever in equal right to them.

vi). It is pertinent to say that the property mentioned in draft sale deed for an extent of 15 cents is having more market value rather than the meager agreed amount. The main purpose of the sale agreement of Exhibits A1 and B1 are only for road purpose but not or alienating the property for ever to the petitioner. The petitioner has filed his draft sale deed by hiding the exact necessity and requirements arrayed in the exhibits A1 and B1 in between the petitioner and the respondent. So he approached before this court by suppressed facts on the veil of judgment and decree by misrepresentation through E.P. to execute the draft sale deed without following the soul of agreement in between the petitioner and the respondent.

vii). In the schedule of property columns the description of property mentioned only 15 cents. It should be added the Nature of land as dry land and also added as 15 cents including the area covered under 12 ft width road which is going to be make through the land of respondent connecting to the property of purchaser(petitioner)

and the same is equally rightful to the purchaser and seller and their legal heirs who being the petitioner and defendant here in. If this court is simply going to proceed with the draft farce sale deed without considering all the above mentioned objections submitted by the respondent, then the loss, hardships, mental agony and sufferings incurred by the same will be irreparable and incurable for the respondent and his family.

viii). Hence this court may be pleased to peruse and consider the above facts and circumstances of the suit and pass necessary orders before proceeding along with the farce draft sale deed which was already submitted by the deceased petitioner and now the proposed petitioners in that stance without following the soul of Exhibits A1 and B1 in the parent suit of O.S.No.42/1998 of E.P.No.9/2017 and to the needful for the end of justice forever. Petition is may be dismissed.

4. The point for consideration is that whether the petition is allowed or not.

5. No oral and documentary evidences were let on both sides and heard both side.

6. This court carefully considered that the submission of both sides learned counsels, Petition Affidavit, Counter and perusal of case records. At the stage of Execution of sale deed, this petition is filed by the Petitioner/Decree Holder seeking to impleaded the Petitioners/Proposed Decree Holders 2 to 5 as legal representatives of the deceased 1st Petitioner/Decree Holder as Petitioners 2 to 5 in the above Execution petition. The Execution petition filed by the Decree holder seeking Respondent/Judgment Debtor to execute the sale deed in favour of the Petitioner/Decree Holder failing which the court to execute the sale deed in favour of the Petitioner/Decree Holder.

7. The Original petitioner/decree holder was died on 10.04.2025. This petition is filed beyond the period of 90 days. Set aside the abatement petition not filed and correct section of law not mention in petition. Hon'ble Supreme court of India in Mithailal Dalsangar Singh vs Annabai Devram Kini, 2003 (10) SCC 691 and Om prakash Gupta and others vs Sathish Chandra 2025(2), MWN(Civil) 526 held that Section 5 of Limitation act, Order 22 Rule

9 of CPC petition not necessary to implead the legal heirs of the deceased person. Therefore without filing set aside the abatement petition this petition is not hit.

8. The proposed parties are Legal representatives of the deceased Decree Holder to decided the Execution petition. Correct section of law not mention in petition is does not reason to dismiss the petition. If allowing this petition no prejudice to the Respondent. The above said facts and circumstances, just decision of the petition, the petitioners are legal representatives of Decree Holder and in the interest of justice, this petition is allowed.

7. CONCLUSION:-

In the result, this petition is allowed, no cost.

Dictated by me to the Steno-typist, typed by his, corrected and pronounced by me in open court, this the 14th day of October 2025.

**ADDITIONAL DISTRICT MUNSIF,
GUDALUR**

PETITIONERS SIDE WITNESSES

Nil

PETITIONERS SIDE EXHIBITS

Nil

RESPONDENT SIDE WITNESSES

Nil

RESPONDENT SIDE EXHIBITS

Nil

**ADDITIONAL DISTRICT MUNSIF,
GUDALUR**

**Additional District Munsif Court,
Gudalur.
E.A.No.1/2025 in E.P.No.9/2017
Fair Order.
dt.14.10.2025**
