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**IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PUDUKKOTTAI.**

PRESENT : Thiru.K.Poorana Jeya Anand, M.A., M.L.,
Principal District Judge, Pudukkottai.

Friday, the 07th day of March, 2026.

(Thiruvalluvarandu 2057 Sri Visuvvasu Varudam Masi Thingal 23rd day)

E.P.No.120/2024 in O.S.No.45/2018

CNR No: TNPD01 004495 2024

Kumarasamy ... Petitioner / Plaintiff / Decree Holder

versus

Venkatachalapathy ... Respondent / Defendant / Judgment
Debtor

This Execution Petition has come up for final hearing before me on 06.03.2026 and upon hearing the arguments of Mr.K.Jeyasankar, Learned Advocate appearing for the petitioner and of Mr.S.Sahadevan, Learned Advocate appearing for the respondent and upon perusing the records and having stood over for consideration till date, this court passed the following...

ORDER

1) This Execution Petition has been filed by the petitioner / plaintiff / decree holder under Order 21 Rule 35 of CPC for seeking delivery of the petition mentioned property.



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2) **The case of the Petitioner/Plaintiff/ Decree holder is as follows:-**

The petitioner is the Plaintiff/Decree holder in the Original Suit No.45/2018. The respondent is the Defendant /Judgment debtor therein. The suit was filed for declaring that the plaintiff is the absolute owner of the suit property and consequential relief of permanent injunction restraining the defendant and recovery of possession of the suit properties to the plaintiff. The suit was decreed by this court on 10.04.2024, against which there was no appeal preferred by the respondent. The decree passed on 10.04.2024, has become final and conclusive. The petitioner having got an executable decree in his favour. In the above said decree the time was granted only three months. But, the respondent has not handed over the property. Hence, the petitioner filed the Execution Petition for the delivery of the suit property.

3) **The case of the respondent / defendant / judgment debtor is as follows:-**

This petition is not maintainable and the same is liable to be dismissed. The respondent/defendant completely denies all the averments mentioned in the petition. The property mentioned in the schedule of property belonged to the respondent through adverse possession. Furthermore, for a long period of time, the respondent/defendant's son Saravanan, has been running a grocery store and he has been in possession of the same. This place is Natham Poramboke. Therefore, it is unacceptable to attach the property. The petitioner/plaintiff may only seek vacant possession after excluding and measuring the grocery shop run by the



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respondent/defendant's son Saravanan. The petitioner/plaintiff has no right to file a petition to take vacant possession of the schedule property. The respondent/defendant filed an appeal against the judgment and decree passed by this court before the Hon'ble Madurai Bench of Madras High Court. The appeal is still pending. The reasons and explanations provided to allow the petition are unacceptable. Hence, the respondent prays to dismiss the petition with exemplary costs.

4) Point that arises for consideration in this Petition is that

Whether the petitioner / plaintiff is entitled to get a relief as prayed for?

5) Heard both sides. Records perused.

6) The learned counsel appearing for the petitioner has contended that the suit in O.S.No.45/2018 was decreed by this court on 10.04.2024, against which there was no appeal preferred by the respondent. The decree passed on 10.04.2024, has become final and conclusive. In the above said decree the time was granted only three months. But, the respondent has not handed over the property.

7) The learned counsel appearing for the respondent has contended that the respondent/defendant filed an appeal against the judgment and decree passed by this court before the Hon'ble Madurai Bench of Madras High Court. The appeal is still pending. Hence prays for dismissal of the petition.

8) I have carefully considered the arguments advanced by either side and perused the records.



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9) On perusal of the decree it reads as follows:-

i) that the suit is be and hereby decreed with cost,

ii) that the time for 3 months,

iii) that the defendant is directed to pay the cost of Rs.59175/- to the plaintiff.

10) There is no stay against the execution of decree. The respondent contended that he filed an appeal before the Hon'ble Madurai Bench of Madras High Court. But, the respondent failed to produce any document to show that the appeal is pending and failed to produce any stay order to execute the decree before this court. Hence, this court is inclined to pass an order of delivery.

11) In the result, delivery is ordered. Delivery by 30.03.2026. batta in 3 days.

This Order is directly dictated by me to the Stenographer Grade-III of this Court, typed by him in computer, corrected and pronounced by me in open court, this the 07th day of March, 2026.

Principal District Judge,
Pudukkottai.

Both side evidence & documents... Nil.

Principal District Judge,
Pudukkottai.