

**DMC ARAKKONAM**

**1 EP. No. 04 of 2025 IN OS.120/2007**

**IN THE COURT OF DISTRICT MUNSIF ARAKKONAM RANIPET DISTRICT**

**PRESENT:- Selvi.A.AMEENA.,BBA.,LLB(Hons)**

**DISTRICT MUNSIF, ARAKKONAM**

**Thursday the 13<sup>th</sup> day of November 2025**

**EP. No. 04 of 2025 IN OS.No. 120/2007**

**(CNR - TNRP080000412025)**

1. Gajaraj (died)
2. Tmt. Manimegalai
3. Ilakiya

---Petitioner/Decree Holder

(vs)

1. Kuppuswamy
2. Lakshmiammal
3. Viswanathan
4. Amaresan
5. Nagalingam

---Respondent/Judgment Debtor

This suit is coming for final hearing before me on 5.11.2025 in the presence of Mr.SM.Jamaludeen counsel appearing for Petitioner/Decree Holder. JD 1 and JD 5 was set exparte on 22. 09.2025. Advocate Mr. B.Venkatesan counsel appearing for JD 2 to JD4. On perusal of entire case records having stood over for consideration till this day, this court has delivered the following:-

**ORDER**

The petition is filed under Order 21 rule 22 and 32 of CPC directing the respondent 2 to 4 to execute and register the sale deed infavour of D.H.s 2 and 3 in respect of the E.P. Schedule property by failing which the same may be enabled through process of this Hon'ble Court and to pass such other or further order.

**1. Brief Averments of Petition:**

The petitioner is the plaintiff in the suit. The suit was filed for specific performance to direct the 2<sup>nd</sup> to 4<sup>th</sup> defendants to execute sale deed in favour of plaintiff and for permanent injunction injunctions and for the cost. Decree was passed on 14.04.2022 by dismissing the suit by this court. 1<sup>st</sup> appeal was preferred by petitioner/plaintiff and was numbered as As.No.146/2014. The 1<sup>st</sup> appeal was allowed and decree was passed on 3.03.2015. The defendants preferred 2<sup>nd</sup> appeal before Hon'ble High court, the Hon'ble High court dismissed the 2<sup>nd</sup> appeal and confirmed the decree passed in 1<sup>st</sup> appeal. Even after the passing of decree the 2<sup>nd</sup> to 4<sup>th</sup> respondents has not come forward to execute the sale deed by willfully disobeying the decree. Hence, the petition is filed.

**2. Brief Averments of counter by 2<sup>nd</sup> to 4<sup>th</sup> respondents:**

**2.1.** The respondent states that originally the food was filed by the petitioner in os 120 of 2007 for suit for specific performance and permanent injunction. This quote dismissed the suit. Further the petitioner preferred first appeal in AS.No.46 of 2014 the same was partly allowed With respect to the prayer for specific performance to execute sale deed in favor of plaintiff and ordered plaintiff to deposit 10,000 within one month , the suit was dismissed for the prayer of permanent injunction to restrain the defendants from interfering plaintiffs possession.

**2.2.** Further states that the petitioner failed to deposit 10,000 in favor of the respondents as directed by the first appellate court. Further states that the honorable Court has held that the leaf of permanent injunction is not available as it has failed to prove that Gujarat is in possession as per the sale agreement dated 12 five two thousand four. The respondent Nagalingam has filed a reply in original suit number twenty of 2023 appearing through council and in para eight of the written statement he stated that Gajaraj was in possession as per the sale agreement dated 12 .5.2004 and after the death of the said Gajaraj his heirs are shown in the said execution

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petition is false. Further states that the 5<sup>th</sup> respondent has deliberately avoided appearing in the set court in the set execution petition. Also states that the petitioners did it appear before the court, weather refiling was done in the true situation out of their own will fill stop the same will be known only if the second and third petitioners appear before the court. Therefore press to dismiss this petition.

**3.Points for consideration:**

- (i) Whether the petition filed under order 21 rule 32 of CPC for detention of 3<sup>rd</sup> respondent in civil prison is to be allowed or not?
- (ii) To what other relief

On the side of the petitioner no oral evidence examined and no documents was marked. On the side of the respondent no oral evidence was examined. Ex.R1 to R3 was marked. Heard plaintiff's side. Records perused.

**4.Discussion and findings:**

**Points No.1&2:**

**4.1.** This petitioner has pleaded that they are the plaintiffs in the suit. The suit was filed for specific performance to direct the 2<sup>nd</sup> to 4<sup>th</sup> defendants to execute sale deed in favour of plaintiff and for permanent injunction injunctions and for the cost. Decree was passed on 14.04.2022 by dismissing the suit by this court. 1<sup>st</sup> appeal was preferred by petitioner/plaintiff and was numbered as As.No.146/2014. The 1<sup>st</sup> appeal was allowed and decree was passed on 3.03.2015. The defendants preferred 2<sup>nd</sup> appeal before Hon'ble High court, the Hon'ble High court dismissed the 2<sup>nd</sup> appeal and confirmed the decree passed in 1<sup>st</sup> appeal. Even after the passing of decree the 2<sup>nd</sup> to 4<sup>th</sup> respondents has not come forward to execute the sale deed by willfully disobeying the decree.

**4.2.** It is pertinent to note that it is seen from the records that lodgment has been filed by the petitioners through E-filing through which it is clear that the petitioners has deposited 10,000 in Hon'ble Sub Court as per the decree in As.No.146 of 2014 on 19.03.2015. Thus, it is very well established by petitioner/Decree holder

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that that they have deposited the amount as per the decree. With respect to the other contentions by the respondent this court is of opinion that the executing court cannot go behind the decree. From Perusing the decree copy of Second appeal it is very clear that the petitioners 2 to 4 were impleaded as legal heirs of Gejaraj.Ex.R1 to Ex.R3 was filed by the respondent but same has no relevancy for non execution of sale deed. If there is any dispute with respect to the impleading of legal heirs it should have been raised in second appeal itself. Moreover, this court only has bounded duty to execute the decree. Upon perusing the records, it is very well established the relief of specific performance to execute sale deed has been decreed in favor of petitioners in 1<sup>st</sup> appeal and the same has been confirmed by Hon'ble High Court of madras in 2<sup>nd</sup> appeal. There is no civil appeal pending. Thus, it is the duty of 2 to 4<sup>th</sup> respondents to execute sale deed sale in favor of petitioners but they failed to execute the same. Therefore, it is just and necessary to execute sale deed by this court. Hence, in interest of justice this court is inclined to allow this petition.

In the result, this petition stands allowed and the sale deed is ordered to be executed in favour of Decree holders. Decree holders are directed to file draft sale deed along with Non Judicial stamp for the requisite value with 15 days.

Dictated to typist directly, typed in his computer, corrected and pronounced by me in the Open Court on this the 13<sup>th</sup> day of the November 2025.

District Munsif,  
Arakkonam.

**Petitioner side witnesses and Exhibits:- NIL**

**Respondent side witnesses :- NIL**

**Respondent side Exhibits:-**

Ex.R1	-	Plaint in OS.20/2023
Ex.R2	-	Execution petition in EP.No.04/2025 in O.S.No.120/2007
Ex.R3	-	Appeal suit register Extract in A.S.No.146/2014.

District Munsif,  
Arakkonam.