



E.P.No.02 of 2026

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IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM, THENI DISTRICT.

Present: Thiru. C.SANKAR, B.A. M.L. PGDCFS.,
Additional District and Sessions Judge,
Periyakulam, Theni District.

Friday, the 10th day of July, 2026.

EP.No.02/2026
CNR.No. TNTH090000362026
- in -
OS.No.63/2022
-

V. Chinnakailasam (Died)

... 1st Plaintiff

1. C. Palanisamy

2. C. Papathy

3. C. Manthiri

4. C. Rajalakshmi

... Petitioners/
Plaintiffs 2 to 5

// Vs. //

K. Pokharaj

... Respondent/
defendant

This petition came up for final hearing before this Court on 03.07.2026, in the presence of Mr.K.Muthuvel, Learned Counsel for the petitioners and Mr.P.Chandrasekaran, Learned Counsel for the respondents and upon perusing the Petition, Counter and Documents and upon hearing both side arguments and having stood over for consideration till this day, this Court delivered the following...



ORDER

This execution petition has been filed under Sections Order 21, Rule 66 of the Civil Procedure Code seeking an order to recover the decree amount mentioned in the petition along with subsequent interest and costs by auctioning the petition-schedule property through court auction proceedings.

Averments made in the Execution Petition in brief is as follows:

2. The petitioner has filed the original suit against the respondents and obtained a judgment and Preliminary Decree dated 28.11.2024 and Final Decree dated 22.09.2025. Accordingly, an order has been passed to the respondents to pay the decree amount of Rs. 21,08,774.00/- along with costs to the petitioner. But the respondents have not paid the decree amount to the petitioner. Moreover, the petition schedule property was transferred to the respondents. Therefore, despite the respondents having sufficient income, they are refusing to pay the decree amount. Therefore, this petition has been filed seeking to have the property mentioned therein appraised and brought to auction, and to recover from the proceeds thereof the amount payable under the decree, along with subsequent interest and costs to the petitioner.

Averments made in the Counter filed by the respondents in brief is as follows:

3. The execution petition filed by the petitioners is neither legally nor equitably sustainable. In the present case, one Chinnakailasam passed away after the final decree was obtained on 22.09.2025. In the execution petition filed subsequent to his



demise, Mrs. Vimala the wife of the late Raja and one of his legal heirs has not been impleaded as a petitioner. Furthermore, there are errors in the property particulars specified in the final decree dated 22.09.2025. Additionally, the calculation of the amount and interest set out in Paragraph 'G' of the execution petition is inconsistent with the decree and is erroneous; while the total amount is stated as Rs. 2,37,980/- in Paragraph 'H', the figure of Rs. 20,93,691/- mentioned in Paragraph 'G' reveals a glaring discrepancy in the calculation. Therefore, as this execution petition is not maintainable, the respondent humbly prays that this Honorable Court dismiss the petition and award costs to the respondent.

4. No documents or oral evidence let by both sides.

5. Point for determination:

1. Whether this petition is allowed or not ?

Point No.1.

6. Heard perused the records. The Learned Counsel for the petitioner argued that, The petitioner has filed the original suit against the respondents and obtained a judgment and Preliminary Decree dated 28.11.2024 and Final Decree dated 22.09.2025. Accordingly, an order has been passed to the respondents to pay the decree amount of Rs. 21,08,774.00/- along with costs to the petitioner. But the



respondents have not paid the decree amount to the petitioner. Moreover, the petition schedule property was transferred to the respondents. Therefore, despite the respondents having sufficient income, they are refusing to pay the decree amount. Therefore, this petition has been filed seeking to have the property mentioned therein appraised and brought to auction, and to recover from the proceeds thereof the amount payable under the decree, along with subsequent interest and costs to the petitioner.

7. The Learned Counsel for the respondents argued that, The execution petition filed by the petitioners is neither legally nor equitably sustainable. In the present case, one Chinnakailasam passed away after the final decree was obtained on 22.09.2025. In the execution petition filed subsequent to his demise, Mrs. Vimala the wife of the late Raja and one of his legal heirs has not been impleaded as a petitioner. Furthermore, there are errors in the property particulars specified in the final decree dated 22.09.2025. Additionally, the calculation of the amount and interest set out in Paragraph 'G' of the execution petition is inconsistent with the decree and is erroneous; while the total amount is stated as Rs. 2,37,980/- in Paragraph 'H', the figure of Rs. 20,93,691/- mentioned in Paragraph 'G' reveals a glaring discrepancy in the calculation. Therefore, as this execution petition is not maintainable, the respondent humbly prays that this Honorable Court dismiss the petition and award costs to the respondent.

8. The petitioners have filed this execution petition because the respondents have not yet paid the decretal amount due under the final decree. The respondents



have objected to the maintainability of the petition on the grounds that one of the legal heirs was not impleaded as a petitioner, that there are errors in the property details within the final decree, and that there are discrepancies in the calculation of the decretal amount and interest in the execution petition. However, the mere non-inclusion of one of the heirs as a petitioner does not constitute grounds for dismissing the execution petition. Furthermore, the alleged errors in the decree and the calculation discrepancies are matters to be rectified through appropriate legal proceedings; they cannot, in themselves, prevent the execution of the decree. Therefore, this Court holds that the respondents' objections are not sustainable and this petition should be allowed.

In the result, the petitioner's petition is allowed with costs; the property specified in the schedule is to be sold by auction, and the decretal amount is to be paid to the petitioner from the sale proceeds. The sale papers by 10.08.2026.

Dictated by me, directly typed by Steno-Typist into computer, corrected and pronounced by me in the open Court, this the 10th day of July, 2026.

**Additional District and Sessions Judge,
Periyakulam.**



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Petitioner/ plaintiff side Witnesses and Documents: Nil.

Respondents/defendants side Witnesses and Documents: Nil.

Additional District and Sessions Judge,
Periyakulam.



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**Additional District and
Sessions Court,
Periyakulam, Theni District.**

Fair: Order

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Dated 10.07.2026.