

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUPPUR**

**Present: Thiru. N.Gunasekaran, M.B.A., B.L.,
Principal District Judge, Tiruppur**

Tuesday, the 22nd day of April, 2025

E.P. No. 61/2024

O.S. No.531/2021

(CNR. No. TNTI18002495 - 2024)

M/s. City Housing Nidhi Limited,
Represented by its General Manager /
Authorized person N.Sriganesh

...Petitioner / Decree Holder / Plaintiff

.Vs.

- 1) Umamaheshwari
- 2) Indhumathi,
- 3) Swetha
- 4) Kaliyappan

... Respondents / Judgment Debtors /
Defendants.

On 19.03.2025, this petition came for final hearing before me in the presence of Ms. Sangamithra, Counsel appearing for the petitioners and Tmt. N.Devi, Counsel appearing for the 1st respondent, respondents No.2 to 4 remained exparte and upon hearing both side and perusal of records, this Court deliver the following:

ORDER

This Execution petition is filed under Order 21, Rule 11(2) of Code of Civil Procedure to order to sell the petition mentioned property in a public auction after due issuance of Sale Notice and Proclamation and to enable the petitioners to realize the amounts due under the decree with subsequent interest and cost.

Dated:22.04.2025

Principal District Court, Tiruppur

2) Case of the 1st respondent in brief from her counter statement reads as follows:

The petition is not maintainable both under law and on facts. The petitioners are put to strict proof of the allegations in the petition except which are specifically admitted by the respondent as true. The 1st respondent does not know about the averments mentioned in the petition. It is false to state that each of the respondent had borrowed Rs.2,00,000/- and Rs.8,00,000/- in total from the petitioners for which the 1st respondent had executed a promissory note and the other respondents had executed the necessary documents. It is also false to state that the 1st respondent had mortgaged the property belonged to her in favour of the petitioners and as per the accounts maintained by the petitioners, the respondents have to pay Rs.10,31,782/-. The petitioners with a malafide intention to grab the property of the 1st respondent, calculated higher rate of interest and have come with this petition. The real facts are that when the 1st respondent had applied for a loan amount of Rs.8,00,000/-, the petitioners company had deducted Rs.80,000/- towards document registration fee and several other charges and had lent only Rs.7,20,000/- as loan amount. The 1st respondent had paid interest properly. During March, 2020, due to Covid 19 pandemic the 1st respondent was not able to pay a few installments and thereafter, she paid the due amounts to the petitioners in a proper manner. When the 1st respondent approached the petitioner company to settle the amount in full quit, they have demanded for more interest in violation of the guide lines of the Reserve Bank of India. The petition is barred by limitation and there is no cause of action for the suit. Hence, the petition is not maintainable and is liable to be dismissed.

3) The point for determination:-

Whether the petition mentioned property belonged to the 1st respondent has to be sold in public action so as to enable the petitioners to realize the amounts due under the decree with subsequent interest and cost?

4) No oral or documentary evidence was let in on both side.

5) Point :

Both side heard. Records perused. The 1st and 4th respondent are brother and sister and the respondents No.2 and 3 are the daughters of the 1st respondent. The suit in O.S. No.531/2021 on a mortgage was decreed and final decree was passed vide order in I.A. No.1251/2022; dated: 25.08.2023 in favour of the petitioners herein. Admittedly, there is no Appeal to question the same and hence, the said judgment and decree attained finality. Therefore, the respondents being the parties to the proceeding are precluded from denying the validity and binding nature of the decree. There is no valid ground to oppose the petition seeking for execution of final decree. By considering the facts and circumstances, this Court is inclined to allow this petition and accordingly, the point is answered.

In the result, the petition is allowed. For Settlement of Proclamation call on 11.06.2025.

Dictated to the Steno-Typist, typed by her directly on the computer, corrected and pronounced by me in open court, this the 22nd day of April, 2025.

PRINCIPAL DISTRICT JUDGE
TIRUPPUR.

List of witnesses and exhibits on both side : Nil

P.D.J., Tiruppur.

**Draft / Fair Order
E.P. No. 61/2024
O.S. No.531/2021
Dt. : 22.04.2025
P.D.J. Court, Tiruppur.**