

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS
JUDGE, THANJAVUR.**

**Present :Thiru. P.Nagarajan, M.A.,M.L.,
II Additional District & Sessions Judge, Thanjavur.**

**Friday the 24th day of July 2026
(Thiruvalluvar Andu 2057 Aadi Matham 8th day)**

E.P.17/2026 in O.S No.74/2019

Karuppaian

.....Petitioner/Decree Holder

/ Vs/

Arunachalam

.....Respondent /Judgment Debtor

This petition having come up for final hearing before me on 17.07.2026 in the presence of **Thiru.K. Vaithilingam**, Advocate for the Petitioner and **Thiru.P. Vignesh**, Advocate for respondent and heard both side upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

The Petitioner filed this petition against the respondent under order 21 Rule 34 of C.P.C. seeking a court order directing the respondent upon service of notice to execute and register the deed within a stipulated time in default, the court itself order the execution and registration of the deed in favor of the petitioner.

(2) The Gist of the affidavit filed by the petitioner/Decree Holder:

The petitioner/decreed holder got a decree in O.S.No.74/2019 against the

respondent on 12.11.2021. It appears that the decree in the aforementioned original suit grants the relief of specific performance, directing the defendant to receive the balance sale consideration of Rs.2 lakhs from the plaintiff and at the plaintiff's expense execute and register a sale deed in the plaintiff's favor regarding the suit property, in accordance with the sale agreement entered into between the parties on 08.05.2017 this is to be carried out within two months from the date of the decree 12.11.2021. However, as the defendant failed to comply with the decree, this execution petition has been filed against the respondent on 11.01.2025 therefore, the petition should be allowed.

3) The Crux of the counter filed by the Respondent/Judgment Debtor:

The respondent/Judgment debtor submits that the respondents the present petition is not maintainable either in law or on facts. The respondents admits that an ex parte decree was passed in the suit. However the said decree has not attained finality and is neither conclusive nor enforceable as the respondent has already initiated proceedings to have the same set aside. The respondent filed an application under order IX Rule 13 of the CPC to set aside the ex parte decree along with a petition to condone the delay on 10.02.2023. The delay condonation petition was taken on file by this court in IA.No.173/2022 and by order dated:10.03.2023, condoned the delay subject to the condition that the respondent should deposit the advance sale agreement amount of Rs.15,00,000/-. Being aggrieved by the conditional order, the respondent preferred Civil Revision

Petition before Hon'ble Madurai Bench of the Madras High Court by filing CMP (MD) No.15820/2023 in CRP (MD) SR.No.83731/2023. The above said petition was pleased to allow the said CMP and directed the Registry to number the CRP. Accordingly the matter has been numbered as CRP (MD) No.1603 of 2024, which is presently pending before the Hon'ble Madurai Bench of the Madras High Court. The issue involved in the present petition are directly connected with the subject matter of the pending CRP and the respondent has a fair and reasonable prospect of succeeding therein. In view of the pendency of said CRP, the present petition are premature. Any further proceedings in the present petition pending disposal of the CRP, would seriously affect the rights and interests of the respondent and may render the pending revision infructuous. Hence pray to dismiss the petition with costs.

4) Whether the petitioner is entitled to the relief sought for?

(5) Point:

Both side arguments heard. Records perused. On perusal it is found that in O.S. No.74/2019 the suit was decreed on 12.11.2021. There is no stay in this case. Hence it is just and necessary to allow this application for order of execution of sale deed. Therefore this petition is allowed. The respondent was directed to execute the sale deed in favour of the petitioner within two months. Hence this point is answered accordingly.

In the result, this execution petition is allowed. This court is directed to

the respondent to execute the sale deed in favour of the petitioner within two months. Batta in a week.

This order is dictated to Steno-typist by me, transcribed by her in computer, corrected and pronounced by me in the open court, this the **24th day of July 2026.**

**II Additional District & Sessions Judge,
Thanjavur.**

Petitioner and Respondent side
exhibits and witnesses: Nil

**II Additional District & Sessions Judge,
Thanjavur.**

<u>Order in E.P.17/2026 in</u> <u>O.S. No.74/2019</u> <u>Dated: 24.07.2026.</u>
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