

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

**PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.**

Tuesday, the 21st day of July 2026

EXECUTION PETITION NO.2 OF 2021

in

Original Suit No.81 of 1999

Sri Chandra Samundeeswari Temple,
Represented by its Managing Trustee
G.M.Chengalvarayam

..... Petitioner/Decree Holder

Versus

1. V.Devendraiah (Deceased)

2. Durga

3. Lakshmi (died)

4. Saraswathi

5. Mrs.Chitti

6. Mrs.Pushpavalli (deceased) (Amended as per order in IA.5/2024 dated 21.08.2024)

(The 1st Judgment debtor legal heirs of the 6th judgment debtor impleaded as per order in E.A.No.122 of 2015 dated 28.06.2017 and amended as per order in E.A.No.1 of 2020 dated 02.12.2020)

7. Bharath (The 3rd judgment debtor legal heirs of the 7th judgment debtor impleaded as per order in E.A.No.7 of 2025 dated 21.01.2026)

..... Respondents/Judgment Debtors

This petition came on 02.07.2026 before this court for final hearing in the presence of Mr.N.R.Gopaalan, Learned counsel for the petitioner/Decree holder and the Judgment Debtors 2, 4 to 6 were set exparte on 23.07.2025. The 7th judgment debtor was set exparte on 15.04.2026. Upon hearing both sides and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order 21 Rule 35 of Civil Procedure Code for delivery of vacant possession of the suit property after removal of the superstructures.

2. Brief averments of the Petition filed by the Decree Holder are as follows:

The Petitioner herein is the Decree Holder in respect of the petition premises, whereas the Respondents are the Judgment Debtors. The Petitioner had earlier instituted a suit in O.S. No.81 of 1999, in which a decree was passed on 25.04.2006. By way of the decree, the defendants were directed to hand over vacant possession of the suit property to the Decree holder/plaintiff after removal of the superstructures therein put up by the defendant and for arrears of rent amounting to Rs.620/- and future damages the quantum to be ascertained in separate proceedings. The defendant to pay to the plaintiff a sum of Rs.615 being the cost of the suit. Due to the willful non-compliance of the decree by the Judgment Debtors, the Decree Holder has filed the present application seeking enforcement of the decree by way of recovery of possession. Hence, this petition.

3. Brief averments of the counter filed by the 3rd respondent/Judgment Debtor and adopted by respondents 2, 4 to 6 are as follows:

3.1. The Judgment Debtors submit that the 1st respondent namely Devendraiah who is the father of the respondent died on 01.05.2003 and after the death of the 1st respondent this court has passed exparte decree on 25.04.2006 and hence the decree is as against a dead person and which is not binding on the legal heirs of the 1st respondent and on the that ground alone, the above E.P. cannot be executed. The E.P. mentioned property is a grama natham land and the 1st respondent was in possession and enjoyment of the same. After the death of the 1st respondent, as legal heirs the other respondents are enjoying the said property by putting up house in the E.P. mentioned property for more than three decades. The above E.P. has been filed as if the E.P. property is a vacant site, but in the E.P. mentioned property there is a house in which the respondents are residing and to prove that there is house, this respondent reserves her right to file an application for appointment of Advocate Commissioner to note down the physical features of the E.P. mentioned property.

3.2. The respondents submit that the respondents are enjoying the E.P. mentioned property for more than three decades and the respondents are paying house tax for the E.P. mentioned property to the Aran Town Panchayat. She has also obtained electricity service connection for the house in the E.P. mentioned property and paying consumption charges to the electricity department. The decree holder has not filed any documents to show that the E.P. mentioned property belongs to the decree holder temple. The respondent has applied for certified copies of the revenue records for the E.P. mentioned property. Hence, the respondent reserves their right to file additional counter if necessary. There is no Bonafide in the above E.P. these respondents are residing in the E.P. mentioned property and except the said property the respondents are not owning any other property and if the E.P. for delivery of the vacant site is allowed, these respondents will be put to irreparable loss, hardship and injury. The balance of convenience is in favour of these respondents. Hence pray for dismissal of the present petition.

4. The Judgment Debtors 2, 4 to 6 were set exparte on 23.07.2025. The 7th judgment debtor was set exparte on 15.04.2026.

5. Evidence:

Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court.

6. Point for Determination:

Whether this petition can be allowed or not.

7. Discussion and Findings:-

7.1. Heard. Records perused. The present execution petition has been filed by the petitioner/decreed holder on 17.07.2013 seeking delivery of vacant possession after removal of superstructures from the petition mentioned property by the respondent/judgment debtor. This execution petition arises from the decree dated 25.04.2006 passed in O.S. No.81 of 1999, wherein Respondent was directed to hand

over vacant possession of the suit property to the Decree holder/plaintiff after removal of the superstructures therein put up by the defendant and for arrears of rent amounting to Rs.620/- and future damages the quantum to be ascertained in separate proceedings. The defendant to pay to the plaintiff a sum of Rs.615/- being the cost of the suit. The present execution petition has been filed due to the failure of the respondent to comply with the terms of the said decree.

7.2. On the other hand, the respondent, by way of counter, have only questioned the legality of the original decree passed by this Court but have not, at any stage, denied their possession and enjoyment of the suit property. Furthermore, the decree in O.S.No.81 of 1999 was passed *exparte* on 25.04.2006. It is submitted in their counter that 1st respondent died on 01.05.2003 and the decree was passed thereafter, hence the decree passed against the deceased is Null and void. Whereas, it is seen that, after the demise of 1st respondent his legal heirs were impleaded as parties. However, during the course of the hearing, the respondents have not disputed their possession over the schedule-mentioned property. This categorical admission proves the fact that the respondent continues to occupy the premises despite the subsisting decree and the expiry of the period granted for vacating the property.

7.3. Upon hearing the rival contentions, it is seen that to date, the judgment debtor has not taken any steps to challenge or set aside the decree, and it was not reported to this court. It is a well-settled principle of law that an Executing Court cannot go behind the decree or question its legality or correctness. In this regard, reference is made to the decision of the Hon'ble Supreme Court in *Rameshwar Dass Gupta v. State of U.P. & Another*, (1996) 5 SCC 728, wherein it was held:

“An executing court cannot travel beyond the order or decree under execution.”

A similar view was reiterated in *Bhawarlal Bhandari v. Universal Heavy Mechanical Shifting Enterprise*, (1999) 1 SCC 558, wherein the Hon'ble Supreme Court observed:

“It is trite law that an executing court cannot go behind the decree that is to be executed and give relief to the judgment debtor that was expressly denied to him.”

The rationale behind these decisions is that once a decree has attained finality, the Executing Court is bound to enforce it in its true spirit and cannot reopen issues that have already been adjudicated. The jurisdiction of the Executing Court is limited to implementing the decree as it stands, and it has no power to re-examine the merits or validity of the original judgment.

7.4. In *Rahul S. Shah v. Jitendra Kumar Gandhi & Ors.*, (2021) 6 SCC 418, the Hon’ble Supreme Court emphasized the urgent need to ensure that decree holders are not deprived of the fruits of their litigation due to dilatory tactics adopted by judgment debtors. The Court observed:

“25. These provisions contemplate that for execution of decrees, the Executing Court must not go beyond the decree. However, there is a steady rise of proceedings akin to a re-trial at the time of execution, causing failure of realisation of the fruits of the decree and relief which the party seeks from the Courts despite there being a decree in their favour. Experience has shown that various objections are filed before the Executing Court and the Decree Holder is deprived of the fruits of litigation, while the Judgment Debtor, in abuse of the process of law, continues to benefit from the subject matter which he is otherwise not entitled to.”

7.5. In the same judgment, the Hon’ble Supreme Court further directed that all execution petitions must be disposed of within a period of six months from the date of filing, thereby ensuring that the process of execution does not become a source of undue hardship or delay. In the present case, the decree in O.S. No.81 of 1999 has attained finality, and there has been no valid stay or setting aside of the same till date. It is pertinent to mention that the present Execution Petition was filed on 17.07.2013. However, no number was assigned to it until 2021. Only in the year 2021 was the petition numbered as E.P. No. 2 of 2021. Therefore, the question of limitation does not arise, as the petition had already been filed within the prescribed period of

limitation in the year 2013. Due to the inadvertence of the Registry, the petition remained unnumbered. Hence, the decree holder cannot be made to suffer for the delayed numbering of the petition. Further, the respondents have neither complied with the decree nor vacated the premises, despite the lapse of the time granted therein. Their continued possession amounts to a willful disobedience of a lawful decree of this Court. The objections raised in the counter are merely an attempt to reopen issues that were concluded in the original proceedings. The decree holder, therefore, is entitled to the benefits of the decree and to recover possession in accordance with law.

7.6. Accordingly, this Court, applying the settled principles of law and guided by the ratio laid down in *Rameshwar Dass Gupta v. State of U.P.*, *Bhawarlal Bhandari v. Universal Heavy Mechanical Shifting Enterprise*, and *Rahul S. Shah v. Jitendra Kumar Gandhi & Ors.*, is of the considered view that the decree holder is entitled to the fruits of the decree. Execution is not a mere formality but a continuation of the process of justice. Hence, this execution petition stands allowed. The respondents/judgment debtors are directed to deliver vacant possession of the suit property to the decree holder forthwith, in accordance with the decree passed in O.S.No.81 of 1999.

8. RESULT :-

In the result, this execution petition is hereby allowed. Delivery by 20.08.2026. Pay batta in 3 days. Call on 20.08.2026.

Dictated by me to the steno-typist, directly typed by her in her desktop, corrected and pronounced by me in the open court, on this the 21st day of July 2026.

**DISTRICT MUNSIF,
PONNERI.**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF,
PONNERI.**

Fair/ Draft Order
E.P.No.2/2021
OS.No.81/1999
Date: 21.07.2026
DMC,PNI.