

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE MADHAVARAM**

Present:P.Deepa, B.A.,B.L.,L.L.M,

District Munsif cum Judicial Magistrate, Madhavaram.

Friday the 12th day December 2025

EP.No.5/2024

1. Mrs. V.Amuthavalli,
2. Mr.N.L. Sukumar

.....Decree Holders/petitioners.

/versus/

Mrs.S.Amutha

.....Judgment Debtor/Respondent.

This petition having coming on 28.11.2025 before me for final hearing in the presence of Mr. A.Athimoolam learned counsel for the Decree Holder and Mr.S.Arul Mohan counsel for the Judgment Debtor. Judgment Debtor/Respondent called absent. No representation. Counter not filed. Hence Judgment Debtor/Respondent was proceeded exparte on 16.09.2025 and on perusal of the records, having stood over for consideration till this day, this court delivers the following.

ORDER

This petition is filed under order 21 Rule 35 CPC to evict the Respondent/Judgment Debtor from the premises at Plot.No.R-132/2, TNHB, Mathur, Madhavaram, Chennai-68 and handover the vacant possession to the Decree Holder and thereby render justice.

1. Brief of petition /affidavit filed by the petitioner/plaintiff in short are as follows:

The Decree holder is the landlord who let out the petition schedule property to the judgment debtor for lease agreement and in view of the decree holder required for the own use and also on the ground of seized to occupy the petition premises, decree holder filed RCOP.No. 16 of 2009 for evicting against the judgment debtor which

was decreed on 17.12.2014 for handing over vacant possession of the petition premises to the decree holder. In view of the failure of judgment debtor to hand over the vacant possession of petition premises to the decree holder, decree holder has come up with this petition. Hence, this present petition.

2. No one is examined and no documents were exhibited on either side. Judgment Debtor/Respondent called absent. No representation. Counter not filed. Hence Judgment Debtor/Respondent was proceeded exparte on 16.09.2025.

3. **Now the point for determination is that:**

Whether the decree holder is entitled for the relief of vacant possession of petition premises ?

4. **Answer to the point for determination:**

4.1. This Court upon perusal of the material records and the pleadings, arguments finds that the decree in question emanates from the Fair and Decretal Order dated 17.12.2014 in RCOP.No.16/2009. A through perusal of the Decree would indicate that this Court had ordered for the eviction of the Judgment Debtor. Admittedly, the Judgment Debtor had not vacated the premises.

4.2. From the records, this court understands that there is no appeal or proceedings pending questioning the validity or illegality of the Fair and Decretal Order dated 17.12.2014. This court is of the considered view that the onus is upon the Judgment Debtor to establish that the order dated 17.12.2014 is not binding upon her, by filing and appropriate appeal. There is no material on record to substantiate any proceedings questioning the validity or legality of the order dated 17.12.2014 or stay of the same. Further, there is no single material on record or evidence to substantiate the diligent efforts exercised by the Judgment Debtor to set aside the said order dated 17.12.2014. Therefore, this court is of the considered view that the Judgment Debtor having admitted the tenancy cannot dispute the executability of the order dated

17.12.2014 unless and until the same has been questioned or stayed by the appropriate forum.

4.3. Except for the contentions raised in the arguments, there is no pleadings or evidence filed by the Judgment Debtor to substantiate the allegations regarding the order dated 17.12.2014. The manner in which the Judgment Debtor had remained silent without filling any appeal against the order dated 17.12.2014 despite thorough knowledge about the same, only implies her consent.

4.4. This court on perusal of records finds that there is no stay order or details regarding any appeal regarding the order dated 17.12.2014. This court opines that in the absence of any material regarding the stay or appeal, there is no impediment to proceed with this petition. Therefore, this court is of the considered view of that the Fair and Decretal order passed by this court on 17.12.2014 is the still binding on the judgment debtor. Hence, in the interest of justice and for providing an opportunity to the Decree Holder to enjoy the fruits of the Decree, this Court is inclined to allow this petition. Thus the point for determination is answered in favour of the decree holder.

Result:

In the result, this execution petition is hereby allowed. Delivery of the petition property by the Senior Bailiff of this Court on or before 12.01.2026, on payment of batta in 3 days. Call on 12.01.2026.

Dictated by me to the Steno-Typist, Transcribed and typed by her, corrected and pronounced by me in the Open Court on the 12th day of December 2025.

**District Munsif cum Judicial Magistrate,
Madhavaram**

Decree Holder and Judgment Debtor side witnesses and Exhibits : Nil

**District Munsif cum Judicial Magistrate,
Madhavaram**

