

IN THE COURT OF THE SUBORDINATE JUDGE, SRIVAIKUNDAM.

Present : Thiru. .K. Nambirajan,B.A.,B.L.,

Subordinate Judge,

Wednesday the 26th day of March 2025.

E.A.No.1/2025 in E.P.No.40/2023

S. Saravanan

.... Petitioner/Petitioner/Plaintiff

/Vs/

S. Samuvel

..... Respondent/Respondent/Defendant

This Execution appeal petition is coming up for final hearing on 26.03.2025 in the presence of Thiru. A. Jeyasingh Maduram appearing for the petitioner, and Respondent called absent set exparte, and after perusal of entire records and having stood over to this day for consideration, this Court delivered the following:-

ORDER

This petition has been filed by the Petitioner under Order 21 Rule 19 of CPC to setoff the execution petition's balance sale consideration of Rs.5,000/- to be paid by the petitioner to the respondent with the decretal amount of Rs.7,580.50/- to be paid by the respondent to the petitioner.

1. The principal Execution Petition has been instituted with the objective of effectuating the decree for specific performance rendered on 27.06.2014 in O.S. No. 58/2013 on the file of the Subordinate Court, Thoothukudi. The

decree, unequivocal in its terms, mandates the decree holder to deposit a sum of Rs.5,000/- towards the balance sale consideration, while simultaneously imposing an obligation upon the judgment debtor to remit a sum of Rs.7,580.50/- towards the costs incurred by the decree holder. Consequently, the decree holder has filed the present application to record the satisfaction of the balance sale consideration of Rs.5,000/- by way of adjustment against the judgment debtor's outstanding liability of Rs.7,580.50/- towards costs.

2. Invoking the statutory powers conferred under Order XXI Rule 19(b) of the Code of Civil Procedure, 1908, it becomes evident that the sum of Rs.5,000/- payable by the decree holder towards the balance sale consideration is rightfully adjusted against the larger sum of Rs.7,580.50/- owed by the judgment debtor as costs. This adjustment is not a mere technical formality but a reflection of the legal principle that courts must ensure equitable distribution of liabilities, preventing unjust enrichment and adhering to the maxim that no party should be left at a disadvantage when the law mandates otherwise.
3. Consequently, this application is allowed as prayed for. By virtue of this lawful adjustment, the balance sale consideration payable by the decree holder under the decree stands recorded as fully satisfied. As a result, the outstanding liability of the judgment debtor is reduced to a sum of Rs.2,580.50/- representing the residual costs payable to the decree holder.

Directly dictated to the Steno - Typist and typed by her in the computer, corrected and pronounced by me, on this the 26th day of March 2025.

Subordinate Judge,
Srivaikundam.

Subordinate Court, Srivaikundam.
E.A. No.1 /2025 in
E.P.No.40/2023
Fair/Draft Order
Date : 26.03.2025.