

**IN THE COURT OF THE DISTRICT MUNSIF, VANIYAMBADI,****Present: Thiru V.ESHWAR, B.E.,LL.B.,**

DISTRICT MUNSIF, VANIYAMBADI

Dated this the 07th day of August, 2026

(2057 திருவள்ளூர் ஆண்டு, ஸ்ரீ பராபவ வருடம் , ஆடி திங்கள் 22 ம் நாள்)

E.P. No. 53 of 2020**in****OS. No.14 of 1996**

1. Kasinathan(died)
2. Nirmala
3. Kandasamy
4. Sathish
5. Prabu

(Petitioners No.2 to No.5 added as Lrs of the deceased 1st petitioner as per orders in E.A.No.1/2023 dated 26.09.2023)

..... Petitioners

/Vs./

1. Duraisamy Goundar(died)-JD
2. Raman
3. Vanitha
4. Chinnaraj
5. Srimathi
6. Thirupathi
7. Sarasu

... Respondents

This Execution Petition coming on this day 07.08.2026 for final hearing before me in the presence of the learned counsel Mr.**R.V.Varadarajan** for the petitioners/decreed holders and the learned counsel Mr.**T.E.Khaleel** for respondents 2 to 5, respondents 6 and 7 having been set ex parte and the first respondent having died, and upon perusing the petition, counter, evidence on record, and hearing the arguments advanced on both sides, and this Court having stood over for consideration till this day, this Court doth pass the following:



ORDER

1. This Execution Petition is filed under Order XXI Rule 32(2) of the Code of Civil Procedure praying that the respondents be committed to civil prison for a period of not less than three months for wilful disobedience of the decree dated 27.02.2003 passed in O.S. No. 14 of 1996 in respect of the schedule mentioned property, namely, land in S.No.364/1, Irunapattu Village, Vaniyambadi Taluk, Tirupattur Sub-District, Dry Hectare 0.35.5, kist Rs.2.42 (0.89 acre), together with mamool passage and channel right, within the boundaries set out in the petition schedule.

GIST OF PETITION

2. The case of the petitioners, in brief, is this. The first petitioner Kasinathan filed O.S. No. 14 of 1996 against Duraisamy Goundar, the first respondent herein, and obtained a decree on 27.02.2003 declaring his right over the petition property and restraining the first respondent from interfering with his possession. The first respondent carried the matter in appeal in A.S.No.27 of 2004 on the file of the Additional District Court (Fast Track Court), Tirupattur, which was dismissed on 12.07.2007. His Second Appeal in S.A. No. 832 of 2009 before the Hon'ble High Court of Madras was also dismissed on 07.11.2019. The decree has thus attained finality. An earlier petition in E.P. No. 8 of 2003, filed against the first respondent for disobedience of the very same decree, came to be dismissed on 11.11.2020 upon his death. Respondents 2 to 7 are his legal heirs.



3. According to the petitioners, respondents 2 to 7 have been repeatedly preventing them from cultivating the petition property. On 29.01.2020 at about 10.00 a.m., respondents 2, 4 and 6 trespassed into the property, obstructed cultivation, and threatened the first petitioner that he would be beaten and buried in the land itself. Fearing for his life, he left the place and lodged a complaint on 30.01.2020 before the Kurisilapattu Police Station. The police took no action and directed him to seek his remedy before the civil court. The petitioners would state that the respondents have wilfully disobeyed the decree and pray that they be detained in civil prison.

GIST OF COUNTER

4. Respondents 2 to 5 resist the petition by a common counter. They deny the allegations in their entirety and put the petitioners to strict proof. According to them, the first respondent died on 11.11.2020 leaving respondents 2 to 7 as his legal heirs; the alleged incident of 29.01.2020 never took place; no complaint as alleged was given; and they have never obstructed the petitioners' enjoyment of the suit lands. Their principal contention is that respondents 2 to 7 were not parties to the suit, that no decree was passed against them, and that the petition is therefore not maintainable. They further point out that an identical petition in E.P. No. 8 of 2003 was not pressed on 11.11.2020, and would contend that the present petition, founded on the same allegations, cannot survive. They pray for dismissal with costs. Respondents 6 and 7 remained ex parte.

**Points for Determination**

5. Upon the pleadings, the following points arise for determination:

- (1) Whether respondents 2 to 7, as the legal representatives of the deceased first respondent, are bound by the decree dated 27.02.2003 in O.S. No. 14 of 1996, and whether this Execution Petition under Order XXI Rule 32(2) CPC is maintainable against them?*
- (2) Whether the respondents, or any of them, have wilfully disobeyed the said decree?*
- (3) Whether the petitioners are entitled to the relief of detention of the respondents in civil prison?*

Evidence Adduced

6. On the side of the petitioners, the first petitioner Kasinathan examined himself as PW1 and his son, the fourth petitioner Sathish, was examined as PW2. Exs.P1 to P5 were marked. On the side of the respondents, the second respondent Raman was examined as RW1, the fourth respondent Chinnaraja as RW2, and two third parties, Karunagaran and Sivakumar, as RW3 and RW4 respectively. No document was marked on the respondents' side. Exs.P4 and P5 were marked subject to the objection of respondents 2 to 5, which was reserved for decision along with the main petition and is decided in the course of this order.

**Arguments of the Parties**

7. The learned counsel for the petitioners contended that the respondents have wilfully violated the decree passed by this Court; that though an enquiry is said to have taken place at the police station, no effective action followed; and that the complaint Ex.P4, together with the admissions elicited from RW1 in cross-examination, establishes deliberate disobedience. It was prayed that the petition be allowed and the respondents committed to civil prison under Order XXI Rule 32 CPC.

8. Per contra, the learned counsel for respondents 2 to 5 submitted that no act of disobedience has been committed; that the question of whether physical possession remains with the petitioners is itself in dispute; that upon the demise of the first respondent his legal representatives came into possession of the property; and that being in settled possession, they cannot be dispossessed through execution proceedings of this nature, as the appropriate remedy for the petitioners, if any, being a fresh suit. On these grounds he prayed for dismissal.

Discussion and Reasons for Decision

9. Heard both sides. Records Perused. The following facts are not in dispute. The petition property is an agricultural land of 0.89 acre in S.No.364/1 of Irunapattu Village. The first petitioner obtained a decree against Duraisamy Goundar on 27.02.2003, and that decree survived two rounds of appeal. Ex.P1 is the certified copy of the decree of this Court, Ex.P2 the decree in A.S. No. 27 of



2004 dismissing the first appeal on 12.07.2007, and Ex.P3 the decree of the Hon'ble High Court dated 07.11.2019 dismissing S.A. No. 832 of 2009.

10. RW1 in his cross-examination admitted the correctness of these proceedings and even conceded that in all the cases it was held that the property belonged to Kasinathan and that his possession should not be obstructed, though he sought to add that a further appeal is pending. Respondents 2 to 7 are the sons, daughters and daughters-in-law of the deceased first respondent, and RW1 and RW2 have both deposed that they are conducting the case for the entire family. What is disputed is whether the incident of 29.01.2020 took place, whether the respondents are bound by the decree at all, and who is presently cultivating the land.

Point No. 1 : Maintainability against the legal representatives

11. The respondents' first line of defence is that they were not parties to O.S. No. 14 of 1996, no decree was passed against them by name, and therefore no petition for their detention can lie. The argument does not survive scrutiny of the Code. Section 50 CPC provides that where a judgment debtor dies before the decree is fully satisfied, the decree holder may apply to execute it against the legal representatives of the deceased. Section 146 goes further and permits proceedings to be taken against any person claiming under a party.

12. The decree in Ex.P1 is not a money decree that dies with the man who owed it; it is a decree declaring the first petitioner's right over this very land and restraining interference with his possession. Such a decree attaches to the



property. The respondents claim the land only as heirs of Duraisamy Goundar, they set up no independent title of their own. A person who steps into the shoes of the judgment debtor and takes the very property which was the subject of the injunction cannot claim the freedom to do what his predecessor was forbidden from doing.

13. The Hon'ble Supreme Court in *Prabhakara Adiga v. Gowri and others, (2017) 4 SCC 97*, has held that a decree for injunction does not become inexecutable upon the death of the judgment debtor, and that by virtue of Section 50 read with Order XXI Rule 32 CPC it can be enforced against his legal representatives, who are bound by it in respect of the property that has come to their hands. The principle applies with full force here. It is one thing to say that a legal heir cannot be punished for what his predecessor did in his lifetime; it is quite another to say that heirs who take the decree-bound property may themselves commit fresh acts of disobedience with impunity. The present petition does not seek to punish respondents 2 to 7 for any act of Duraisamy Goundar. It complains of their own conduct on and after 29.01.2020. For such conduct, they are personally liable.

14. The reliance placed on the fate of E.P. No. 8 of 2003 by the respondents is misplaced. That petition was directed against Duraisamy Goundar for his own disobedience, and it was not pressed on 11.11.2020 for the reason that the man had died. PW1 deposed as much in his evidence that "1ம் எதிர்மனுதாரர் இறந்துவிட்டார். அதனால் அந்த நிறைவேற்று மனுவானது



11.11.2020 தேதியில் தள்ளுபடி ஆகிவிட்டது." The withdrawal of a petition rendered infructuous by death cannot operate as a bar to a fresh petition complaining of fresh acts by different persons. Thus, Point No. 1 is accordingly answered in favour of the petitioners that the respondents are bound by the decree, and the petition is maintainable against them.

Point No. 2 : Whether disobedience is proved

15. Before entering upon the evidence, the objection to Exs.P4 and P5 must be decided. The objection recorded at the time of marking was that these are documents which came into existence after the present petition. The objection is factually untenable. Ex.P4, the complaint, and Ex.P5, the receipt issued by the Kurisilapattu Police Station, both bear the date 30.01.2020, whereas this Execution Petition was instituted only later in the month of December 2020. A document cannot be a creation subsequent to the petition when it precedes the petition itself. It is true that Ex.P4 is a photocopy, and PW1 conceded in cross-examination that the date does not figure on the top of its first page. Standing alone, that might have invited caution. But Ex.P5, the acknowledgment of the very complaint, supports it. RW1 himself admitted in cross-examination that the police did conduct an enquiry on the complaint given by Kasinathan: "மேற்படி இந்த மனுவில் மனுதாரர் ஆன காசிநாதன் என்பவர் அளித்த புகாரின் பேரில் தான் விசாரணை செய்தார்கள் என்றால் சரிதான்." A party who admits that the police enquired into a complaint cannot in the same



breath take a stand that the complaint never existed. The objection is overruled, and Exs.P4 and P5 are acted upon.

16. Turning to the incident itself. PW1, in his chief examination, spoke to the occurrence of 29.01.2020 in these words: "கடந்த 29.01.2020 தேதியில் காலை சுமார் 10 மணி அளவில் 2,4,6 எதிர்மனுதாரர்கள் என்னுடைய சுவாதினத்தில் உள்ள மனு சொத்தில் அத்துமீறி நுழைந்து பயிரிட விடாமல் இடைஞ்சல் செய்தார்கள். அதை கேட்டதற்கு உன்னை நிலத்திலேயே அடித்து காலி செய்து புதைத்துவிடுவோம் என்று மிரட்டியும் தகாதவார்த்தைகளாலும் திட்டினார்கள்." He lodged Ex.P4 the very next day. PW2, his son, claims to have been present, and in cross-examination PW1 stated that he and his son alone witnessed the trespass. It is to be noted that Ex.P4 names only Raman, Chinnaraj and Thirupathi (respondents 2, 4 and 6) and PW1 admitted this: "ம.சா.ஆ.4 புகார் மனுவில் ராமன், சின்னராஜி, திருப்பதி ஆகியோருக்கு எதிராக மட்டுமே புகார் தெரிவித்துள்ளேன் என்றால் சரிதான்." The petitioners' own case, tested against their earliest document, is thus an incident involving three named respondents, and not all seven respondents.

17. RW1 denied the incident but made admissions which is detrimental to their defence. RW1 admitted that all three courts had held against his father: "அனைத்து வழக்குகளிலும் வழக்கு சொத்தானது மனுதாரர் ஆன காசிநாதன் என்பவருக்கு தான் பாத்தியப்பட்டது என்றும் அவருடைய



சுவாதீனத்தை தடை செய்யக்கூடாது எனவும் தீர்ப்பாகி உள்ளது என்றால் சரிதான்." RW1 then sought refuge in the assertion that a further appeal is pending in the High Court. That assertion is demonstrably false. Ex.P3 shows that the Second Appeal was dismissed on 07.11.2019, and RW1 admitted that he has filed not a scrap of paper to show any pending proceeding. A witness who invents a pending appeal to escape a concluded decree does not commend himself to the Court.

18. RW1 went further and claimed: "கடந்த 60 வருடமாக நாங்கள் தான் பயிர் செய்து வருகிறோம்." This is not a denial of the decree; it is a proclamation of defiance of it. Three courts have concurrently held that the property belongs to Kasinathan and that his possession is not to be disturbed. For the judgment debtor's own son to assert before the executing court that his family has been, and continues to be, in cultivation of that very land is to admit that the respondents will not let the decree holders enjoy the fruits of their decree.

19. When RW1 was confronted with his counter dated 14.03.2022 in E.A. No. 16 of 2022, where he had stated that no police complaint was given and no enquiry held, he answered that the police did in fact come and enquire. A person cannot say one thing on oath in one proceeding and the opposite in another and expect both to be believed.



20. RW2 admitted in cross-examination that three courts have held that the respondents should not obstruct the petitioners' possession, and when asked why the petitioners have not been able to cultivate, his answer was that they themselves are cultivating. He also admitted that the police enquiry took place and that the family attended the police station.

21. RW3 destroyed his own evidence in a single answer: "எதிர் மனுதாரர்கள் குடும்ப பிரச்சனையோ அதில் நிலத்தின் பிரச்சனையோ குறித்து எனக்கு நேரடியாக எதுவும் தெரியாது என்றால் சரிதான். இந்த வழக்கிற்கு சம்பந்தப்பட்ட பிரச்சனை குறித்து எனக்கு நேரடியாக எதுவும் தெரியாது என்றால் சரிதான்." He is a labourer working on the respondents' lands, owns no land in the village, and came to court at the instance of their counsel. His evidence deserves no weight.

22. RW4 claims direct knowledge, but he too came at the request of respondents 2 and 4, owns no land within the boundary recitals of the schedule, was unaware of the concluded appellate proceedings, and his account of the police advising the petitioners to obtain orders from court in fact fits the petitioners' narrative that the police declined to act and relegated them to the civil court.

23. The burden of proving wilful disobedience lies on the petitioners, and the standard is a strict one. In the instant case, the petitioners have discharged the burden as against respondents 2, 4 and 6. Their case rests not merely on the



interested word of PW1 and PW2, but on a prompt complaint of 30.01.2020, its official acknowledgment, the admitted police enquiry, and above all the respondents' own stand in the witness box that they are cultivating the decree-bound land and will continue to do so. The probabilities all point one way.

24. The petitioners have not proved their case as against respondents 3, 5 and 7. Ex.P4 does not name them; PW1 and PW2 attribute the overt acts of 29.01.2020 to the three men alone. Beyond a general averment that respondents 2 to 7 harass the petitioners, there is no specific overt act proved against these three women. Suspicion cannot take the place of proof where imprisonment is the relief sought.

25. The respondents contend that having come into possession after their father's death, they can be evicted only by a fresh suit. The argument turns the law on its head. The doctrine of settled possession, recognised in decisions such as ***Rame Gowda v. M. Varadappa Naidu, (2004) 1 SCC 769***, protects a person in established peaceful possession against forcible dispossession otherwise than by due process of law. It has never been understood to arm a judgment debtor's heirs with a shield against the very decree that binds the property in their hands.

26. A Possession taken or retained in defiance of a subsisting injunction decree is not settled possession; it is continuing disobedience. To accept the argument would be to hold that a litigant who loses through three courts may, by simply outliving the litigation and handing the land to his sons, reduce the decree to waste paper. The law does not approve of such results. Thus, Point No.



2 is answered thus: wilful disobedience of the decree dated 27.02.2003 stands proved against respondents 2, 4 and 6, and is not proved against respondents 3, 5 and 7.

Point No. 3 : Relief

27. Detention in civil prison under Order XXI Rule 32(2) CPC is a discretionary and drastic remedy, to be exercised with circumspection and only where the disobedience is wilful and the decree cannot otherwise be vindicated. The disobedience found against respondents 2, 4 and 6 is neither casual nor accidental. It is deliberate, persistent, and accompanied in this very proceeding by a false claim of a pending appeal and an open assertion of continued cultivation in defiance of concurrent decrees. Nothing in their conduct suggests that anything short of the sanction which the Code provides will secure obedience. This Court is therefore satisfied that the case calls for committal, though for a term shorter than the three months prayed for.

Result

28. In the result, and for the reasons recorded on Points 1 to 3, this Execution Petition is **allowed in part**. The wilful disobedience of the decree dated 27.02.2003 in O.S. No. 14 of 1996 by respondents 2, 4 and 6 having been established, respondents 2 (Raman), 4 (Chinnaraj) and 6 (Thirupathi) are ordered to be detained in the civil prison for a period of **thirty (30) days** under Order XXI Rule 32(2) of the Code of Civil Procedure. Issue Warrant of arrest for their detention in civil prison.



29. The petition is dismissed as against respondents 3, 5 and 7, no specific act of disobedience having been proved against them. The petitioners are at liberty to pursue such remedy as is open to them in law for restoration of possession of the petition property.

30. There shall be no order as to costs.

Directly typed by me in my official laptop, corrected by me, and pronounced in open court on this day, the 07th of August , 2026.

**DISTRICT MUNSIF,
VANIYAMBADI.**

APPENDIX

I. Witnesses examined on behalf of the Petitioners/Decree Holders: -

PW1- Kasinathan

PW2- Sathish

II. Documents marked on behalf of the Petitioners/Decree Holders:

Exhibits	Date	Description
EX.P1	27.02.2003	Certified copy of the decree passed in O.S. No. 14/1996 by the District Munsif Court, Vaniyambadi.
EX.P2	12.07.2007	Certified copy of the decree passed in A.S. No. 27/2004 by the Additional District Court - Fast Track Court, Tirupattur.
EX.P3	07.11.2019	Certified copy of the decree passed in S.A. No. 832/2009 by the High Court of Madras.
EX.P4	30.01.2020	Complaint dated 30.01.2020 filed at Kurisilapattu Police Station.
EX.P5		Receipt acknowledging the complaint filed at the police station.

III. Witnesses examined on behalf of the 1st Respondent/Judgment Debtor:

RW1- Raman

RW2- Chinnaraja

RW3- Karunagaran

RW4- Sivakumar



IV. Documents marked on behalf of the Respondent/Judgment Debtor: -
Nil-

**DISTRICT MUNSIF,
VANIYAMBADI.**