

**IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.**

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).LLM.,**
District Munsif,
Gudiyattam.

Monday, this the 16th day of February 2026

E.P. No.77/2016
in
OS.No. 87/1991

The Pernambut Muslim Educational Society,
Rep.by its Secretary

.... Plaintiff/ Petitioner

// Versus //

1. Vellai (Died)
2. Manikandan
3. Kavitha
4. Rajiv Gandhi

.... Defendants/ Respondents

This execution petition came up before this Court on 23.01.2026 for final hearing in the presence of advocate Tr.K.Moganaraju, the learned counsel for the petitioner and Tr.S.Gunasekaran, the learned counsel for the respondents 2 to 4 and upon perusal of case records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under Order XXI Rule 22 and 35 of the Code of Civil Procedure, 1908 and direct the respondent to deliver possession of the schedule mentioned property to the petitioner and in case of his refusal order delivery through the process of this Hon'ble court and grant such other relief.

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1. The averments of the petitioner in brief:

The petitioner stated that in OS.87/1991 the Hon'ble court directed the respondent to vacate and delivery the possession of suit property to the petitioner. But till today the respondent failed to pay the rent. In the decree it is directing the respondents to pay the rent till he vacate the schedule mentioned property. This execution petition is filed after 2 years from the date of decree hence it was filed under Order 21 Rule 22 CPC.

2. The content in the counter filed by the 1st respondent:-

The respondent/judgment debtor submit that against the judgment and decree in OS.No.87/1991 the respondent prepared appeal before the Hon'ble Sub Court, Gudiyattam in that appeal Government of Tamil Nadu by its District Collector, Vellore filed petition to implead as for the and claiming right over the property by saying it is a police line marked for constructing of police quarters. Hence the property not belonging to the petitioner. The decree passed in the above suit is not enforceable in law the petitioner has no locus standi to maintain the petition hence prayed to dismiss the petition.

3. The content in the counter filed by the 3rd respondent:-

The respondent submit that against the judgment and decree in OS.No.87/1991 the 1st respondent seemed to have prepared appeal before the Hon'ble Sub Court, Gudiyattam in that appeal Government of Tamil Nadu by its District Collector, Vellore filed petition to implead as for the and claiming right over the property by saying it is a police line marked for

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constructing of police quarters. Hence the property not belonging to the petitioner. The decree passed in the above suit is not enforceable in law. The Government of Tamil Nadu represented by its Collector, Tahsildar Pernambut is a necessary party to the suit this petition is liable to be dismissed for non joinder of necessary party. The petitioner has no locus standi to maintain the petition hence prayed to dismiss the petition.

4. Point for consideration :-

Whether this application is liable to be allowed?

5. Evidence :-

Neither of the parties to this application have adduced any oral or documentary evidence.

6. Petitioner side enquiry heard. Respondent side failed to make his submission.

7. Discussion :-

On considering the submissions made by the petitioner counsel and perusing the available records this court delineate and proceeds its findings based on the following discussion.

7.1. The Petitioner is the Decree Holder in the said EP. The Petitioner/plaintiff filed suit for directing the defendant to vacate and delivery the possession of the suit property and to pay rent arrears along with mesne profits till the date of delivery of possession against the 1st respondent and the same was decreed on 04.04.2007. As per decree the

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1st respondent is liable to vacate and surrender the possession of the suit property to petitioner. After passing of decree till filing of the execution petition the 1st respondent failed to vacate and delivery the possession of the petition mentioned property to the petitioner. Subsequently the 1st respondent died on 28.02.2019 on that his legal heirs respondents 2 to 4 are in the possession of the suit property hence they are impleaded as respondents in the execution petition.

7.2. It is further submit that the respondents 2 to 4 have got knowledge about the said decree and they wantonly, intentionally failed to obey the decree of this court. In fact the respondents 2 to 4 have appeared through their counsel and filed their counter. In the counter the respondents stated that against the OS.No.87/1991 decree the 1st respondent seemed to prepared appeal in that appeal Government of Tamil Nadu by its District Collector, Vellore filed petition to implead as for the and claiming right over the property hence the property not belonging to the petitioner. The decree passed in the above suit is not enforceable hence prayed to dismiss the petition.

7.3. On perusing the available records the petitioner filed OS.87/1991 against the 1st respondent and obtained decree on 04.04.2007. Against the suit decree till date there is no stay to execute the decree, there is no impediment to progress further with the execution petition. The respondents cannot deny the title of the petitioner while the same was not denied by the 1st respondent in the main suit. As per the suit decree the 1st respondent and his legal heirs respondents 2 to 4 are bound to obey the

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decree until it was set aside. Pending appeal is not a ground to stay the execution petition without specific order. Therefore, considering the above aspects in aggregate this Court is inclined to allow this petition to enable the decree holder to enjoy the fruits of decree. Accordingly, the respondents 2 to 4 are ordered to delivery possession of the petition mentioned property.

8. Result :-

As a result, this execution petition is allowed. Delivery by 13.03.2026. Batta in a week.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 16th day of February 2026.

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Petitioner side Witnesses and Exhibits :- Nil

Respondents side Witnesses and Exhibits :- Nil

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