



A.No.5797
in CS No.469 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

A No. 5797 of 2025

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S/o.P.Eganathan, Rep.by his POA

M.Vasanthamoorthy, Sri Rama Illam, No.91and92,

Gangai Amman Koil Street, Vadapalani, Ch-26

..Applicant(s)

Vs

1. P.Abusa And Another

W/o.M.A.Salim, No.22A, K.K.Salai, Kaveri

Rangan Nagar, Saligramam, Ch-93

2. Mr.M.A.Salim

S/o.Abdul Majeed, No.22A, K.K.Salai, Kaveri

Rangan Nagar, Saligramam, Ch-93

..Respondent(s)

PRAYER: The application has been filed under Order XIV Rule 8 of Original Side Rules read with Order 34 Rule 5 and Section 151 of Code of Civil Procedure praying to pass a final decree in the above said C.S. No.469 of 2019 for the sale of mortgaged property.



A.No.5797
in CS No.469 of 2019

For Applicant(s):

Ms. V. Charishma for M/s.V.Srimathi

For Respondent(s):

M/s. R.V. Gayathri for

M/s. P.B. Ramanujam

ORDER

This application has been filed by the applicant / Plaintiff to pass a final decree in the Suit for the sale of mortgaged property.

2. The applicant is the decree holder. Already this Court passed a preliminary decree on 11.03.2024. As per the Preliminary Decree, the respondents / defendants were directed to pay a sum of Rs.6 crores with interest @ 9% p.a. from the date of mortgage i.e., 08.01.2018 till the date of realisation and time for payment of such amount is four month. In the event of failure to pay that amount within the time, the Plaintiff is entitled to apply for final decree proceedings for bringing the mortgage property for sale for realisation of the amount and also granted decree that in the event where the net proceeds from sale are not found sufficient to satisfy decree amount, the Plaintiff is at liberty to file appropriate application for recovery of the balance amount. Even after the Preliminary Decree passed by this Court, the respondents / Judgment Debtors / defendants failed to comply with the direction of the Court as per the Preliminary Decree. Therefore, the applicant / Plaintiff has filed this application.



A.No.5797
in CS No.469 of 2019

3. The other side have not filed any counter. Even after ample chances given to the respondents, they have not filed any counter. Therefore, this Court, based on the available records, is inclined to pass orders.

4. In this case, this Court already passed a Preliminary Decree to the tune of Rs.6 crores by directing the respondents / defendants to pay the said amount within 4 months, failing which, the Plaintiff is at liberty to apply for final proceedings for bringing the property for sale for recovery of the said amount. The respondents have not paid the amount even after Preliminary Decree passed by this Court on 11.03.2024. Therefore, this application for final decree to bring the mortgaged property for sale to realize the mortgage amount is liable to be allowed.

5. This application is *allowed* and the *final decree is passed* upon hearing the Preliminary Decree passed in this Suit on the 11th March 2024 and the application of the Plaintiff dated the 19th November 2025 for a final decree and after hearing the parties, it appearing that the payment directed by the said decree and orders has not been made by the defendants or any person on his behalf or any other person entitled to redeem the mortgage.

6. It is hereby ordered and decreed that the mortgaged properties in the aforesaid Preliminary Decree mentioned or a sufficient part thereof be sold, and that



A.No.5797
in CS No.469 of 2019

for the purposes of such sale, the Plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged properties.

7. It is hereby further ordered and decreed that the money realised by such sale shall be paid into the Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the Plaintiff under the aforesaid preliminary decree and under any further orders that may have been passed in this Suit and in payment of any amount which the Court may have adjudged due to the Plaintiff for such costs of the Suit including the costs of this application and such costs, charges and expenses as may be payable under Rule 10, together with such subsequent interest as may be payable under Rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

22-01-2026

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A.No.5797
in CS No.469 of 2019

P.DHANABAL, J.

MJS

A No. 5797 of 2025

22-01-2026



WEB COPY



A.No.5797
in CS No.469 of 2019

A.No.5797 of 2025
in CS No.469 of 2019

P.DHANABAL, J.

This Application is posted today under the caption "for being mentioned" at the instance of the learned counsel for the respondents.

2. The learned counsel appearing for the respondents would submit that initially they filed vakalat for the respondents and thereafter had given change of vakalat and to that effect they also filed memo and the said memo was recorded. However, the name of the respondents counsel has been printed in the order.

3. Considering the said submission, Registry is directed to remove the name of the counsel appearing for the respondents in the order and issue fresh order copy after carrying out amendment.

mtl

17.02.2026



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A.No.5797
in CS No.469 of 2019

P.DHANABAL, J.

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A.No.5797 of 2025
in CS No.469 of 2019

17.02.2026