

TIME LINE FOR DISPOSAL OF EXECUTION PETITIONS - PRACTICAL CHALLENGES

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INTRODUCTION:

The concept of a Decree and the role of a Decree holder are central to the functioning of civil justice system. Decrees serve as enforceable judgments that define legal rights, while Decree holders wield the authority to enforce these rights through execution proceedings. Understanding these concepts is essential for navigating civil litigation and ensuring the effective endorsement of judicial decisions.

The execution of a decree is the final stage of litigation. It is often described as a real test of the judicial system. As the Hon'ble Supreme Court of India famously noted, "the difficulties of a litigant begin after obtaining a decree". For a judicial officer, managing the execution court involves balancing the rights of the decree holder, with the procedural safeguards provided to the judgment debtor.

What is a Decree?

A decree is the formal determination by a civil court **of the rights of the parties in dispute** (Sec 2 (2) CPC defines "decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determine the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within Sec. 144, but shall not include clause

- (a) any adjudication from which an appeal lies as an appeal from an order or
- (b) any order of dismissal for default).

What is Execution?

“Execution” in itself is not defined under the Code of Civil Procedure, 1908. In simple words it means, process for enforcing a decree that is passed in favour of the Decree Holder, by a competent Court.

In the entire civil proceedings, the execution proceedings play an important role. A devotion and pious obligation is casted upon the Nazareth section in this aspect, as it is the establishment to carry out the orders of the Court in the execution proceedings mainly. Even if a decree is obtained by the plaintiff, unless it is satisfied by way of execution, it is only a waste paper in the eye of the Plaintiff. Only when the decree is satisfied by way of an Execution, then only the plaintiff can enjoy the fruits of such decree and he can take home the usufruct of such decree. The Execution proceedings will be commenced after passing of the decree or executable order.

Which Court executes the Decree?

Under Section 38 of the CPC, execution is done by the court that passed the decree or the court where the judgment-debtor resides or holds assets.

It is important to note that the Decree holder rights are subject to certain limitations and legal procedures prescribed under the CPC. Execution proceedings must comply with statutory requirements to ensure fairness and due process for both parties involved. Additionally, the Decree holder may encounter challenges during execution, such as resistance from the judgment debtor or complexities in locating and attaching assets.

Execution proceedings under CPC:

The execution provisions of the CPC are outlined in Order XXI, which lays down the detailed procedures and mechanisms for executing decrees and Sec.36 to 74 of the Code of Civil Procedure, 1908 deals

with various aspects as to execution of decrees i.e., the courts by which the decrees may be executed and the questions to be determined by the court executing decree and the transferees and legal representatives who can enforce the decree and the procedure to be followed in execution of a decree pertaining to arrest and detention, attachment, sale and distribution of assets.

Time for execution of a Decree :- (Art. 136 of the Limitation Act, 1963) :

For execution of any decree (other than decree granting a mandatory injunction) or order of any Civil Court, the period of limitation is 12 years, which begins to run from where the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought take place; provided that an application for enforcement of execution of a decree granting perpetual injunction shall not be subject to any period of limitation.

(Art. 135 of the Limitation Act, 1963):

For the enforcement of a decree granting a mandatory injunction, the period of limitation is 3 years, which begins to run, on the date of the decree or where a date is fixed for performance, such date.

Payment or adjustment subsequent to decree:- Order XXI Rule (2) :

Every payment or adjustment is made subsequent to decree out of court, such payments and adjustments shall be certified by the Decree holder to the court whose duty it is to execute the decree and the court shall record the same accordingly. The Judgment Debtor also may inform the court of such payments or adjustments and apply to the court to issue a notice to the D. Hr to show cause, on a day to be fixed by the

court, why such payments or adjustments should not be recorded as certified and if, after service of such notice, the D. Hr fails to show cause, the court shall record the same accordingly.

Limitation period for recording an adjustment or satisfaction of a decree is 30 days which begins to run when the payment or adjustment is made.

Execution Petition:-

When there is no such payments or adjustments are made, the D. Hr. is at liberty to apply the court which passes the decree for execution or if the decree is sent to another court for execution. A decree may be executed either by the court which passed it, or by the court to which it is sent for execution (Sec. 38 of CPC).

Section 82 of CPC:-

Execution shall not be issued on a decree passed against the Union of India or a State, as the case may be, public officer, unless it remains unsatisfied for the period of three months computed from the date of such decree.

Petition for Execution of a Decree (E.P.) shall be filed under Order 21 Rule 11 CPC in the proforma Form No.6 given in the Civil Procedure Code. The Court may require the applicant to produce a certified copy of the Decree (Or.21 R3 CPC). Certified copy of decree should be filed together with the First Execution Petition (Rule 210 of Civil Rules of Practice)

Simultaneous Execution: (Order 21 Rule 21 CPC):

The court may in its discretion, refuse execution at the same time against the person or property of the J. Dr.

The Court shall not grant any relief not claimed by the execution petitioner (Rule 209(2) of Civil Rules of Practice).

METHODS OF EXECUTION :- Section 51 of C.P.C.,:

1. By delivery of property
2. By attachment and sale or by the sale without attachment of any property
3. By arrest and detention in prison.
4. By way of attachment of salary, if the J. Dr. is an employee.

Modes of Execution (Order XXI, Rule 10)

The CPC provides various modes of execution through which a decree can be enforced:

Attachment of Property (Order XXI, Rules 35-57):

The decree holder may request the court to attach the judgment debtor's property, including movable or immovable assets, to secure the decree amount.

Sale of Property (Order XXI, Rules 64-100):

Attached property can be sold through public auction to realize the decree amount. The proceeds of the sale are used to satisfy the decree holder's claim.

Arrest and Detention (Order XXI, Rules 37-46):

In certain circumstances, the court may order the arrest and detention of the judgment debtor for failing to comply with the decree, particularly in cases involving payment of money.

Appointment of Receiver (Order XX, Rules 1-9):

The court has the authority to appoint a receiver to manage the judgment debtor's property and realize the decree amount.

Objections in Execution Proceedings (Order XXI, Rule 22):

The judgment debtor has the right to raise objections to the execution of the decree on various grounds, such as:

- The decree has been fully satisfied.
- The decree is not executable as per law.

- The decree holder's claim is time-barred or legally invalid.

The court will hear and adjudicate on these objections before proceeding with the execution.

Additionally, certain orders passed in execution proceedings are appealable as per the CPC.

Provisions for Decrees for Specific Acts (Order XXI, Rule 32)

In cases where the decree requires the performance of a specific act, such as the execution of a conveyance or the delivery of possession, the court may issue further directions to ensure compliance by the judgment debtor.

Execution of Decrees against Legal Representatives (Order XXI, Rule 50):

If a judgment debtor passes away, execution proceedings can be initiated against their legal representatives to enforce the decree.

Execution of Decrees against Partnerships (Order XXI, Rule 48)

In the case of a partnership firm, a decree against the firm can be executed by attaching and selling the firm's property.

Special Provisions for Execution of Decrees

The CPC also contains specific provisions for the execution of certain types of decrees:

- Execution of Decrees for Restitution of Conjugal Rights or for Judicial Separation: These decrees may require specific enforcement measures to ensure compliance.
- Execution of Decrees for Specific Performance: Decrees requiring specific acts or performance may involve unique execution challenges.

- Execution of Decrees for Possession of Immovable Property: Special procedures exist for executing decrees related to possession of immovable property.

Objections and Appeals in Execution Proceedings:

Reasons for delay:

Why Execution Petitions are struck?

•**Delays Built Into Procedure:** The Civil Procedure Code (CPC) mandates several steps - issuing notices, hearing objections, and providing multiple opportunities to the losing party - all of which stretch over months or even years.

•**Data from the NJDG:** According to the National Judicial Data Grid (NJDG):

- An average civil suit takes 4.91 years to conclude.
- An execution petition takes another 3.97 years.
- Nearly 47.2% of pending execution cases were filed before 2020.

•**Top Reasons for Delay:**

- Counsel not available: 38.9%
- Stay by another court: 17%
- Awaiting documents: 12%

Other Reasons For Delay

•**Low Priority:** Execution petitions are often treated as administrative rather than judicial matters, leading to deprioritization.

•**Procedural Complexities:** The process involves multiple steps—notice issuance, objections, attachment of property, and sometimes police assistance.

•**Resistance from Judgment Debtors:** Many use legal tactics to delay compliance, including filing frivolous objections or appeals.

•**Lack of Monitoring:** Until recently, there was minimal oversight on how long execution petitions remained pending.

Common causes of delay include:

- repeated adjournments;
- failure to serve notice;
- repeated applications;
- objections to attachment;
- third-party claims;
- objections to sale;
- challenges to auction;
- applications for modification;
- appeals and revisions;
- change of counsel;
- death of parties;
- failure to produce documents;
- non-cooperation in identification of property;
- administrative delays.

Some of these difficulties are legitimate and require judicial consideration. Others are plainly dilatory. The challenge for the executing court is therefore to protect legitimate procedural rights without permitting the execution process to become an instrument of obstruction.

The remedies provided for preventing injustice are actually being misused to cause injustice, by preventing a timely implementation of orders and execution of decrees. The execution proceedings which are supposed to be handmaid of justice and sub-serve the cause of justice are, in effect, becoming tools which are being easily misused to obstruct justice.

In respect of execution of a decree, Section 47 of CPC contemplates adjudication of limited nature of issues relating to execution i.e., discharge or satisfaction of the decree and is aligned with the consequential provisions of Order XXI. Section 47 is intended to prevent multiplicity of suits. It simply lays down the procedure and the form whereby the court reaches a decision. For the applicability of the section, two essential requisites have to be kept in mind. Firstly, the question must be the one arising between the parties and secondly, the dispute relates to the execution, discharge or satisfaction of the decree. Thus, the objective of Section 47 is to prevent unwanted litigation and dispose of all objections as expeditiously as possible.

These provisions contemplate that for execution of decrees, Executing Court must not go beyond the decree. However, there is steady rise of proceedings akin to a re-trial at the time of execution causing failure of realization of fruits of decree and relief which the party seeks from the courts despite there being a decree in their favour. Experience has shown that various objections are filed before the Executing Court and the decree holder is deprived of the fruits of the litigation and the judgment debtor, in abuse of process of law, is allowed to benefit from the subject matter which he is otherwise not entitled to.

The general practice prevailing in the subordinate courts is that invariably in all execution applications, the Courts first issue show cause notice asking the judgment debtor as to why the decree should not be executed as is given under Order XXI Rule 22 for certain class of cases. However, this is often misconstrued as the beginning of a new trial. For example, the judgment debtor sometimes misuses the provisions of Order XXI Rule 2 and Order XXI Rule 11 to set up an oral plea, which invariably leaves no option with the Court but to record oral evidence which may be frivolous. This drags the execution proceedings indefinitely.

As the trial continues between specific parties before the Courts and is based on available pleadings, sometimes vague description of properties raises genuine or frivolous third-party issues before delivery of possession during the execution. A person who is not party to the suit, at times claims separate rights or interests giving rise to the requirement of determination of new issues.

While there may be genuine claims over the subject matter property, the Code also recognises that there might be frivolous or instigated claims to deprive the decree holder from availing the benefits of the decree. Sub-rule (2) of Rule 98 of Order XXI contemplates such situations and provides for penal consequences for resistance or obstruction occasioned without any just cause by the judgment debtor or by some other person at his instigation or on his behalf, or by the transferee, where such transfer was made during the pendency of the suit or execution proceedings. However, such acts of abuse of process of law are seldom brought to justice by sending the judgment debtor, or any other person acting on his behalf, to the civil prison.

Landmark Judgments on Execution of Decrees:

1. Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman & Ors. reported in **AIR 1970 SC 1475**.

In this case, a decree was passed by the trial court, and during execution, the judgment-debtor raised the objection that the decree was without jurisdiction, and hence not enforceable.

Legal Point

Can an executing court examine the correctness or legality of a decree passed by a competent court?

Verdict

The Supreme Court held that an executing court cannot go behind the decree. Its sole function is to execute the decree as it stands. If a

decree is passed by a court having jurisdiction, it must be obeyed - even if the judgment-debtor believes it is erroneous.

However, the only exception is if the decree is a nullity, i.e., passed by a court completely lacking jurisdiction, in which case it can be challenged even at the execution stage.

This judgment upholds the finality of decrees and prevents re-litigation during the execution stage. It clarifies the limited scope of Order 21, Rule 1–3, and reinforces the idea that execution is not a second trial.

2. Topanmal Chhotamal v. Kundomal Gangaram & Ors. reported in AIR 1960 SC 388

In this case a decree was passed directing the defendant to deliver specific goods. Instead of enforcing the decree in its original form, the decree-holder moved the execution court seeking monetary compensation for the goods.

Legal Point

Can the nature of a decree be changed during execution - for example, from specific relief to money recovery?

Verdict

The Court held that the execution must conform to the terms of the decree. If the decree directed the delivery of goods, then the executing court must implement it as such — not as a money decree.

The court cannot alter, amend, or substitute the mode of execution based on convenience.

This decision enforces the sanctity of decree-specific execution under Order 21 Rule 30 and Rule 31, especially in cases involving specific performance.

3. M.C. Mahajan v. Indian Oil Corporation reported in **(1991) 1 SCC 50**

In this case the petitioner challenged the execution of a money decree passed against him and raised multiple technical objections to delay the process.

The decree-holder, Indian Oil Corporation, claimed that such objections were merely delay tactics, and the decree should be enforced without unnecessary hindrance.

Legal Point

Can procedural objections be used to frustrate or delay the execution of a valid decree?

Verdict

The Supreme Court ruled that execution proceedings should not be treated as fresh litigation. The court strongly discouraged technical challenges which aim only to prolong the execution and deny justice.

It emphasized that courts must take a practical and expeditious approach while executing a decree.

The ruling is a practical guide for execution courts dealing with habitual defaulters or judgment-debtors using Order 21 Rules 97–101 to delay proceedings.

4. Hungerford Investment Trust Ltd. v. Haridas Mundhra & Ors. reported in **AIR 1972 SC 1826**

The trial court passed a complex decree involving delivery of shares and monetary relief. When the matter went for execution, the judgment-debtor claimed the decree was too vague to be enforced.

Legal point

Can a vague or ambiguous decree be executed by the execution court?

Verdict

The Court ruled that if a decree is capable of being reasonably interpreted, then the execution must proceed. The executing court has the authority to interpret the decree to make it workable.

It need not dismiss the application solely on the ground that the decree is not specific in every detail.

It provides guidance on how to handle imperfectly drafted decrees. Crucial for real-world litigation where judgments are not always clear-cut.

5. Salem Advocate Bar Association v. Union of India reported in (2005) 6 SCC 344

This case challenged the 2002 amendments to CPC, especially the procedural changes introduced for execution proceedings, timelines, and adjournments.

The petitioners argued that the procedural restrictions under the amended CPC could adversely affect litigants.

Legal point

Are the amendments to Order 21 CPC valid and constitutional, especially those that tighten execution timelines?

Verdict

The Supreme Court upheld the amendments and emphasized that expeditious execution is an essential part of the justice system. The reforms were aimed at reducing the backlog and making the civil process more efficient.

The judgment also endorsed case-flow management systems, reduction in adjournments, and strict timelines during execution and observed that

- Speedy execution is part of the right to access justice.
- Courts must enforce decrees without delay under the amended Order 21.

- Judiciary must support procedural reforms to ensure effective implementation.

And this is a modern execution law milestone, setting the tone for future reforms and efficient decree enforcement.

Key Efforts in Reducing Execution Petitions

- **Legal Reforms:** The Law Commission of India, in its 14th Report, had recommended reforms to streamline execution proceedings.
- It led to amendments in the CPC in 1976, allowing executing courts to adjudicate all related questions, including those of title, within the same proceedings — eliminating the need for separate suits.
- **Supreme Court's Past Efforts:** It has previously intervened to fix delays in execution proceedings.
- In **2021**, a three-judge bench led by then **CJI S.A Bobde (Rahul S. Shah vs. Jinendra Kumar Gandhi reported in 2021 (6) SCC 418)** issued **14 mandatory directions** to trial courts, including a **six-month deadline** for disposing of execution matters.

The number of execution petitions being disposed is steadily declining while the number of them being instituted has steadily increased (barring 2020 which has probably been impacted due to the COVID-19 pandemic). These numbers indicate the scale of the problem in accessing justice and demonstrate a need for clarity and direction on how execution proceedings can be made more effective.

Making note of the large volume of execution petitions in the country, the delays in disposing such cases, and multiple issues that may arise due to claims by third parties, the Supreme Court in the case

of **Rahul S Shah** laid down the following directions with respect to suits and execution proceedings so as to do justice to the litigants:

1. In suits regarding delivery of possession, the court must examine parties in relation to third party interest, including asking parties to produce documents and provide a declaration regarding third party interest.
2. Where possession is not in dispute, the court may appoint a Commissioner to get an accurate description and status of the property.
3. The court must add all necessary and proper parties to the suit so as to avoid multiplicity of proceedings.
4. To aid proper adjudication, a Court Receiver could be appointed to monitor the property.
5. The court must ensure that the decree is unambiguous and contains a clear description of the property and its status.
6. In money suits, the court must on an oral application ensure immediate execution of the decree.
7. In money suits, the court may at any stage of pendency demand security to ensure satisfaction of a decree.
8. While dealing with the execution of decrees and orders, the court (a) must not mechanically issue notices based on a third party claiming rights, (b) should refrain from entertaining applications that have been considered during adjudication, (c) should refrain from entertaining applications that raise issues which could have been raised and determined during adjudication.
9. The court should only allow for taking evidence in execution proceedings in rare and exceptional cases. It must only do so where the question of fact could not be decided by appointing a Commissioner or calling for electronic material with affidavits.

10. When the court finds any objection, resistance, or claim to be frivolous or mala fide, the court (a) can direct the applicant to be put in possession, (b) may on the instance of the applicant direct the judgment debtor to be detained in civil prison, and (c) can also grant compensatory costs.
11. In relation to Section 60 of the Code of Civil Procedure, 1908 (CPC) which deals with property that is liable to be attached and sold for execution of a decree, the language 'in the name of the judgment-debtor or by another person in trust for him or on his behalf' should be interpreted to include any person from whom the judgment debtor 'may have the ability to derive share, profit or property'.
12. The **executing court must dispose execution proceedings within six months from the date on which the case is filed.** This may be extended only by recording reasons for delay in writing.
13. When the executing court feels it would not be possible to execute the decree without assistance from the police, it may direct the police to provide assistance. Further, if the court is informed of any offence against a public officer discharging their duties, such offence must be dealt with stringently.
14. **Judicial academies should** prepare manuals and **provide continuous training to court staff executing warrants**, carrying out attachment and sale, or carrying out any other duties to execute orders.

The Hon'ble Supreme Court also directed the Hon'ble High Courts to reconsider and update their rules pertaining to execution of decrees **to ensure the rules** are in consonance with the CPC and the directions provided in this case **within a period of one year**. Further, the Court

also encouraged the use of information technology tools to expedite the process of execution.

In another reported decision of the Hon'ble Apex Court, one **Mr. Bhoj Raj** approached the Punjab & Haryana High Court challenging an order of whereby the Executing Court had dismissed the Petitioner's application for preponement/early hearing of the case titled "**Bhoj Raj Garg Vs. Goyal Educational and Welfare Society decided on 18th November, 2022** reported in **2022 Live Law SC (976)**" where under he contended:

*"that the Execution Court was not abiding by the directions issued by the Apex Court in the matter of **Rahul S. Shah vs. Jinendra Kumar Gandhi reported in 2021 (6) SCC 418** whereunder the Court had held that, the Executing Court must dispose of the Execution Petitions within **Six months**, from the date of filing, which may be extended only by recording reasons in writing for such delay".*

Thus, in **Mr. Bhoj Raj Garg's Case**, the Hon'ble Apex Court reiterated that:

- 1.The Executing Court must examine the parties to the suit in relation to 3rd party interest and further direct the parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties
- 2.After examination of parties, or production of documents, or receipt of commission report, the Executing Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

3.A Court Receiver can be also appointed to monitor the status of the property in question as “custodia legis” (in the custody of the law.) for proper adjudication of the matter.

4.The Court must, before passing the decree, pertaining to delivery of possession of a property ensures that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

5.The Court must ensure immediate execution of decree for payment of money on oral application.

6.Before settlement of issues, the Defendant may be required to disclose its assets on oath, to the extent that it is being made liable in a suit. The Court may further, at any stage demand security to ensure satisfaction of any decree

7.The Court must not issue notice on an application of third-party claiming rights. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the Applicant.

8.The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with Affidavits.

9.The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

10.The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his

duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

While giving the aforesaid directions, the Apex Court was of the view that it was the duty of the Execution Court to dispose of the execution proceedings **within six months from the date of filing**, which **can be extended only by recording reasons in writing** for such delay. The Execution Court is duty bound to record reasons in writing, when it is unable to dispose of the matter. Accordingly, while reiterating the above directions, the Apex Court disposed of the Special Leave Petition along with the pending interlocutory application(s).

Further, in **Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Another reported in 2025 INSC 329 decided on 06.03.2025** the Hon'ble Apex Court has elaborately discussed and analyzed the provisions of Order XX1 Rule 47, order XX1 Rule 35, Order XX1 Rule 97 to 103 and by revisiting the observations in Rahul S Sha (Supra) case observed at para 74 that the mandatory direction contained in **para 42.12 of Rahul S Sha's case** requiring the **execution proceedings to be completed within 6 months** from the date of filing, has been reiterated by the court in its order in **Bhoj Raj Garg vs Goyel Education and Welfare Society and others** and further at **para-75** directed *"all the High Courts across the country call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative order or circular, directing their respective judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High court on its administrative side"*.

Gist of Periyammal's case:

This case provides important guidance on execution proceedings, third-party resistance, and tenant protection laws. Additionally, the Supreme Court issued significant directions to district courts to ensure smooth execution of decrees.

1. Introduction: Understanding Execution Proceedings & Their Challenges

In civil litigation, obtaining a decree is only half the battle won. The real challenge is executing that decree and ensuring that the decree-holder gets the relief granted by the court. This case illustrates the delays, legal challenges, and procedural loopholes that obstruct execution.

Key Issue in the Case:

- The decree-holder had obtained a decree for specific performance, but when they sought execution, certain persons (respondents) resisted possession, claiming independent tenancy rights.
- The Supreme Court had to decide whether such obstruction by non-parties was legally justified and whether district courts were handling execution proceedings properly.

Legal Question:

1. Can third parties obstruct execution even when they were aware of the original suit but did not contest it?
2. How should district courts handle resistance in execution to prevent unnecessary delays?

2. Factual Background of the Case

- The case arose from a sale agreement dated 30.06.1980 between the plaintiff's predecessor (Ayyavoo Udayar) and the defendants (vendors).

- The vendors failed to execute the sale deed, leading to a suit for specific performance in 1983.
- The Trial Court (1986) decreed in favor of the plaintiff, directing execution of the sale deed.
- The High Court (2004) and Supreme Court (2006) upheld the decree.
- Execution proceedings were initiated, but possession could not be obtained because respondents (defendants' relatives in possession) resisted execution, claiming they were cultivating tenants.

Supreme Court's Concern:

- The judgment had been upheld by the highest courts, yet the decree-holder could not enjoy the fruits of the litigation.
- The district courts were not taking effective action to enforce execution and remove resistance.

3. Key Legal Issues Examined in the Judgment :

Issue 1: Can third parties obstruct execution if they were aware of the original suit but did not contest it?

Relevant Laws & Court's Analysis

- Section 47 CPC: Execution disputes must be decided within execution proceedings, and separate suits should not be encouraged.
- Order XXI Rule 97 CPC: If a decree-holder faces resistance in execution, the court has the power to remove the obstructionist.
- Order XXI Rule 99 CPC: A third party can claim independent rights only if dispossessed unlawfully, but they must prove genuine legal interest.

Supreme Court's Ruling:

- The respondents were aware of the original case but chose not to contest it at that time.
- Instead of participating in the trial, they waited until execution proceedings to challenge the decree.

- The Court held that this was an abuse of the legal process, and the district court should not have entertained such objections.
- Execution proceedings are not meant to re-litigate settled issues.

Conclusion:

- Third-party resistance at the execution stage is not permissible if the party was aware of the case but chose not to intervene earlier.
- District courts must strictly apply Order XXI Rules 97-99 to remove obstructionists.

Issue 2: Can tenant protection laws be misused to obstruct execution?

Legal Framework:

- The Tamil Nadu Cultivating Tenants Protection Act, 1955 protects tenants from eviction without legal process.
- However, tenancy must be established with evidence such as:
 - Rental agreements
 - Payment receipts
 - Official tenancy records

Court's Analysis:

- The respondents produced no evidence of tenancy before 2008 (when execution proceedings started).
- The alleged "tenancy rights" were only claimed after execution was initiated—suggesting a deliberate attempt to misuse tenant laws.
- District courts should not allow tenancy claims without clear proof.

Conclusion:

- Tenant protection laws cannot be used as a shield to obstruct execution.
- Courts must strictly scrutinize tenant claims before staying execution.

4. Supreme Court's Directions to District Courts

To prevent delays and misuse of procedural laws, the Supreme Court issued specific directions to district courts for handling execution proceedings.

Direction 1: Swift Disposal of Execution Petitions

- District courts must not delay execution unless a valid legal objection is raised.
- All objections must be decided within 6 months.

Direction 2: Avoid Entertaining Unverified Third-Party Claims

- If a third party claims a right over the property at the execution stage, courts must demand strict proof.
- Courts should not entertain claims without strong documentary evidence.

Direction 3: Proper Application of Order XXI CPC

- Judges handling execution must apply Order XXI Rule 97 strictly to remove obstructionists.
- If resistance is frivolous, the court should impose costs and penalties.

Direction 4: Accountability of Court Officers

- Court officers and bailiffs must ensure smooth execution without collusion or delays.
- If execution officers fail to perform their duty, courts should take disciplinary action.

Impact of these directions:

- These measures aim to speed up execution and prevent decree-holders from suffering endless delays.
- Judges must take proactive steps to enforce decrees rather than allowing procedural abuse.

Legal Takeaways from the Judgment

Legal Principle	Supreme Court's Holding
Execution should not be delayed	Courts must prioritize decree enforcement.
Third-party claims must be scrutinized	Unverified claims cannot halt execution.
Tenant protection laws require evidence	Claims made after execution begins should be treated with suspicion.
District courts must act proactively	Execution must be completed within 6 months wherever possible.
Judicial officers are accountable	Officers failing to execute decrees should face disciplinary action.

Summary of Case Laws & Their Impact on Periyammal Judgment

Case Name	Key Legal Principle	Applied in Periyammal Case
<i>Brahmdeo Chaudhary (1997)</i>	<u>Third-party objections must be resolved under Order XXI Rule 97.</u>	The Supreme Court ruled that execution cannot be stalled by non-parties.
<i>Shreenath (1998)</i>	Courts must ensure execution is not delayed.	The Supreme Court directed district courts to act swiftly.
<i>Silverline Forum (1998)</i>	Possession claims must be legitimate.	The respondents failed to prove tenancy.
<i>Ashan Devi (2003)</i>	Execution courts must follow the decree.	The Supreme Court ruled that execution should proceed without unnecessary hearings.
<i>Babulal (1996)</i>	Execution must be	The Supreme Court

Case Name	Key Legal Principle	Applied in Periyammal Case
	enforced without delay.	criticized the district court's slow handling.
<i>U.N. Krishnamurthy (2022)</i>	Execution proceedings should be concluded quickly.	The Supreme Court set a 6-month timeline for completion.
<i>K.K. Verma (1954)</i>	Possession does not automatically mean tenancy.	The Supreme Court rejected false tenancy claims.
<i>K.K. Modi (1998)</i>	Courts must prevent abuse of legal process.	The Supreme Court ruled that the respondents were misusing legal provisions.
<i>Vidyadhar (1999)</i>	Issues not raised in trial cannot be raised in execution.	The respondents were barred from objecting at the execution stage.

The Supreme Court in **Periyammal v. Rajamani** has laid down an important precedent to prevent the misuse of legal procedures in execution proceedings.

Final Summary of the Judgment:

- **Execution proceedings should be swift**—courts must not allow unjustified delays.
- **Tenant protection claims must be examined carefully**—courts must ensure they are not being misused.
- **District courts must actively enforce decrees** and prevent obstructionists from delaying execution.
- **Judges and court officers must be accountable**—failure to execute a decree can lead to disciplinary action.

PRACTICAL CHALLENGES:

1. Statutory Hurdles and Procedural Lacunae

Multiple and Frivolous Objections

- **Section 47 CPC Misuse:**

Judgment-debtors frequently file successive applications under Section 47 of the Code of Civil Procedure (CPC). They raise questions that were already decided or should have been raised in the main suit.

- **Order XXI Rule 58 & 97 Claims:**

Third-party objectors often emerge just as the decree is about to be satisfied. These "obstructionists" are frequently set up by the judgment-debtor to stall proceedings.

- **Absence of Strict Costs:**

Courts rarely impose exemplary costs on frivolous objectors. This lack of deterrence encourages delaying tactics.

Complex Regulatory Framework

- **Ornate Rules:**

Order XXI is the longest and most complex order in the CPC. The highly technical nature of the rules creates multiple entry points for procedural appeals and revisions.

- **Lack of Timelines:**

While the CPC provides timelines for filing suits, it lacks strict statutory deadlines for completing execution proceedings.

2. Administrative and Infrastructure Challenges

Shortage of Executing Staff

- **The Nazarat Agency:**

The execution of warrants depends heavily on Process Servers and Bailiffs. There is a chronic shortage of this personnel in most districts.

- **Lack of Security:**

Bailiffs frequently face physical threats, political pressure, or non-cooperation from local residents when executing warrants of attachment or possession.

- **Inadequate Training:**

Execution staff often lack training on the technicalities of property identification, valuation, and handling law-and-order situations.

Police Non-Cooperation:

- **Delayed Assistance:**

Police authorities often delay providing protection for the execution of warrants, citing law-and-order priorities or staff shortages.

- **Bureaucratic Inertia:**

Requisitions for police assistance require multiple administrative approvals, stalling execution for months.

3. Litigant and Subject-Matter Complexities:

Identification of Property

- **Vague Decree Descriptions:**

Decrees often contain vague or outdated property descriptions. When the Bailiff goes to the spot, boundaries do not match, leading to a breakdown of the execution.

- **Changed Ground Realities:**

During long litigation, properties are often altered, built upon, or subdivided. This makes the original decree difficult to enforce without a fresh survey.

Concealment of Assets

- **Financial Opaqueness:**

Judgment-debtors easily hide movable assets, transfer bank balances, or benami-register properties.

- **Inadequate Investigative Powers:**

Executing courts have limited machinery to independently trace the hidden financial assets of a debtor.

4. Institutional and Systemic Issues

Docket Explosion

- **Prioritization Bias:**

Trial courts are often judged by their disposal of main suits rather than execution petitions. Consequently, execution matters are sometimes relegated to the end of the daily cause list.

- **Incentive Structures:**

Standard judicial units systems historically gave less weight to the disposal of an Execution Petition compared to a contested main suit.

Proposed solutions as per Hon'ble High Court of AP circular No.8/26, dt. 20.08.2026 vide ROC No.208/SO/2025:

Guidelines for early disposal of claim petitions

1. Order X of CPC authorizes the Court to examine both parties at the time of first hearing in original proceedings. The same procedure can be adopted at the first hearing of Execution Petitions as well, particularly when claim petitions are filed.
1. Many claim petitions are being filed in relation to immovable properties and are kept pending in Execution Petitions. According to Section 64(1) of CPC, private alienation of property, after attachment, is void. However, Section 64 (2) of CPC prescribes certain exceptions. The Presiding Officer has to examine whether the interest claimed by the claimant is based on registered document or whether such alleged rights were created prior to attachment.
2. If the Court comes to conclusion that J.Dr, with a view to protract the proceedings and to prevent the D.Hr or the auction purchaser from taking possession of the property, has got filed such claim petition through third parties, the Executing Court shall resort to

Section 74 (Order XXI Rule 98(2)) of CPC and send J.Dr to civil prison, thereby unwarranted claim petitions can be curbed.

3. Order XXI Rule 58 contemplates adjudication upon claim petitions/objections, but such petitions shall not be entertained in respect of property attached and has already been sold, inasmuch as such claim petitions are designedly or unnecessarily filed to delay the EP proceedings.
4. When the Court refuses to entertain objections/claim petitions, the party against whom the order of refusal passed, is entitled to institute a suit. However, the EP proceedings need not be stayed on the ground that suit is pending.
5. Order XXI Rule 59(b) specifically provides that the immovable property, pending adjudication of any claim petitions, may be sold at an auction in EP proceedings, however, such sales shall not be confirmed. However, such sales are subject to result of the claim petition.
6. At the time of registering objections under Section 47 of CPC, the Executing Courts should be cautious and shall ascertain whether the petitioner had an opportunity earlier and had taken steps to raise such objections at trial stage. If there was an opportunity to raise such objections, and the objections were raised but the Court rejected such objections, the Executing Court shall not allow such applications under Section 47 of CPC.
7. Once objections under Section 47 of CPC or Order XXI Rule 58 of CPC filed and registered, the Court shall examine whether recording of evidence in such petitions is necessary or not or can they be disposed of on affidavits or on the basis of admitted documents.
8. The Executing Courts shall make an endeavor to decide such petitions without recording evidence. When the Court feels that

recording of evidence is necessary to dispose of the above stated objection petitions, only then the Executing Courts shall proceed to record evidence.

9. The Presiding Officers shall not adjourn the Execution Petitions to longer dates. However, due to any technical hurdles or pendency of various other proceedings (stay from the appellate courts), need may arise to adjourn the proceedings. In such an event, the Presiding Officer shall mention the same in the docket and shall grant short adjournments only.
10. The Principal District Judges shall enquire whether the Presiding Officers are paying attention/taking care at the time of numbering the claim petitions. The Principal District Judges shall also monitor disposal of such claim petitions.

SUGGESTIONS

1. The Presiding Officers of Executing Courts shall take steps to settle the Execution Petitions by way of mediation or through Lok Adalats, particularly the Execution Petitions relating to money decrees or awards. If the parties seek time on the ground of compromise, the Executing Courts should give only short dates.
2. It is the duty of D.Hr to secure particulars of the legal representatives (LRs) of the deceased J.Dr. If the D.Hr is not prompt in taking steps, the Court has to close the Execution Petition instead of giving liberal adjournments.
3. The Principal District Judges, as the members of District Arrears Committee/ District Court Management System Committee (DCMSC), shall monitor the disposal of Execution Petitions every month and shall advise the Presiding Officers, who are not able to attend to the disposal of the Execution Petitions effectively, to improve the disposal.

The staff members who are attending to the Execution Petitions shall be thorough with the provisions and procedural aspects, thereby unnecessary and frivolous objections can be prevented. For this to happen, the staff members shall be trained once in three months by the District Courts with the assistance of Senior Juridical Officers and senior retired staff members.

Conclusion:

A decree is worthless if it cannot be enforced efficiently. An unenforceable decree undermines public trust in the rule of law. To fix the bottlenecks in our execution courts, we need to shift our judicial mindset. Justice is not served when a case ends; it is served when the decree is fully satisfied. Execution should not be treated as a secondary post-script to a trial. The 6-month timeline set by the Hon'ble Supreme Court is an excellent blueprint, but it requires strict administrative discipline to succeed. Only by eliminating tactical third-party objections and penalizing delays we can ensure that a judicial decree remains a powerful tool of justice, rather than a worthless piece of paper.