



C.R.P(MD)No.1916 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2026

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THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.1916 of 2026

and

C.M.P(MD)No.9210 of 2026

Sarojini

.. Petitioner

Vs.

Sundaresan

.. Respondent

PRAYER: Civil Revision Petition filed under section 115 of Civil Procedure Code to set aside the order passed in I.A.No.01 of 2024 in A.S.No.23 of 2024 dated 09.06.2026 on the file of the Sub Court, Kuzhithurai.

For Petitioner : Mr.L.Jeen Felix

For Respondent : Mr.R.Mohanasundaram

ORDER

By consent of both parties, the Civil Revision Petition itself is taken up for final disposal.

2.The Civil Revision Petition is filed challenging the order passed by the first Appellate Court dismissing the application filed by the



C.R.P(MD)No.1916 of 2026

WEB COPY

petitioner seeking stay of the judgment and decree passed by the trial Court.

3.The respondent/plaintiff filed O.S. No.218 of 1995 on the file of the II Additional District Munsif Court, Kuzhithurai, seeking declaration of title and recovery of possession. The suit was decreed. Aggrieved by the said judgment and decree, the petitioner/defendant preferred A.S. No.23 of 2024 on the file of the Sub Court, Kuzhithurai. Since the respondent attempted to execute the decree for recovery of possession, the petitioner filed I.A. No.1 of 2024 in the appeal seeking stay of the operation of the judgment and decree passed by the trial Court. The said application was dismissed by the first Appellate Court on the ground that the petitioner had failed to produce any material to show that the respondent was attempting to dispossess the petitioner from the suit property. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

4.The learned counsel appearing for the petitioner would submit that the respondent has already filed E.P. No.23 of 2024 seeking execution of the decree and that the Executing Court has ordered delivery of possession on 26.03.2026.



C.R.P(MD)No.1916 of 2026

WEB COPY

5.The learned counsel appearing for the respondent/caveator is unable to dispute the submission made by the learned counsel for the petitioner that the respondent has already obtained an order for delivery in the execution petition.

6.The order passed by the Executing Court has been produced at page No.94 of the typed set of papers. A perusal of the same shows that the respondent has already filed an execution petition seeking delivery of possession and that delivery was ordered on 26.03.2026. It is fairly admitted by the learned counsel for both parties that, though delivery was ordered as early as on 26.03.2026, possession has not yet been taken through Court.

7.In the light of the undisputed fact that the respondent has already filed the execution petition and obtained an order for delivery, if delivery is effected pending disposal of the first appeal, the same would cause irreparable loss and injury to the petitioner/appellant. Since the first appeal is still pending, the balance of convenience lies in granting stay of the execution of the decree for recovery of possession.



C.R.P(MD)No.1916 of 2026

WEB COPY

8. Accordingly, the impugned order is set aside. There shall be an order of interim stay of the execution of the judgment and decree passed in O.S. No.218 of 1995 on the file of the II Additional District Munsif Court, Kuzhithurai, pending disposal of A.S. No.23 of 2024 on the file of the Sub Court, Kuzhithurai.

9. Taking into consideration the fact that the appeal has been pending since the year 2024, the first Appellate Court is directed to dispose of A.S.No.23 of 2024 as expeditiously as possible.

10. The Civil Revision Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

20.07.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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To

1. The Sub Court, Kuzhithurai.
2. II Additional District Munsif Court, Kuzhithurai.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.1916 of 2026

S.SOUNTHAR, J.

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C.R.P.(MD)No.1916 of 2026
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