



C.R.P.(MD).No.2213 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.08.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P(MD) No.2213 of 2026

and

C.M.P(MD) No.10581 of 2026

Saraswathi

... Petitioner

Vs.

Palanichamy Goundar

...Respondent

Prayer : Civil Revision Petition under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order passed by the Sub Court, Oddanchatram in I.A.No.1 of 2026 in A.S.No.4 of 2026 dated 23.07.2026 and allow the Civil Revision Petition as prayed for.

For Petitioner : Mr.S.Sankar

For Respondent : Mr.A.P.Athithan
for Mr.V.Muthumani



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ORDER

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With the consent of the petitioner and the respondent, this Civil Revision Petition is taken up for final disposal at the stage of admission.

2. This revision has been filed challenging the order passed by the Sub Court, Oddanchatram in I.A.No.1 of 2026 in A.S.No.4 of 2026 dated 23.07.2026 dismissing the petition filed by the petitioner seeking stay of the proceedings in the Execution Petition.

3. It is not in dispute that the respondent herein obtained a decree for recovery of possession in respect of item No.2 of the suit property. The decree obtained by the respondent has been confirmed up to the Hon'ble Supreme Court in S.L.P.(Civil) Diary No.10664 of 2023. Thereafter, the respondent filed an execution petition in E.P.No.7 of 2023 seeking delivery of the property and the same was ordered by the Executing Court on 27.03.2025. Subsequently, the petitioner filed an application under Order XXI Rule 97 in E.A.No.15 of 2025 in E.P.No.7 of 2023, making a claim in respect of the property. The petitioner purchased a portion of item No.2 of the suit property only in the year 2020, pending litigation. Therefore, the obstruction petition filed by the petitioner was dismissed by the Executing Court. Aggrieved by the said order, the petitioner



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filed an appeal before the Appellate Court in A.S.No.4 of 2026. Pending the said appeal, the petitioner sought stay of further proceedings by filing I.A.No.1 of 2026 in A.S.No.4 of 2026. The First Appellate Court, by the impugned order, dismissed the said petition on the ground that the petitioner is a *lis pendens* purchaser and is bound by the decree passed against his vendor. Aggrieved by the said order, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that the first appeal is a substantial right available to the petitioner and therefore, the First Appellate Court ought not to have dismissed the said petition pending the appeal.

5. The learned counsel appearing for the respondent would vehemently contend that the petitioner is a *lis pendens* purchaser and hence, he has no independent legs to stand. In such circumstances, the impugned order passed by the First Appellate Court cannot be faulted.

6. An order passed in an application filed under Order XXI Rule 97 of the Code of Civil Procedure is a deemed decree for the purpose of appeal. It is settled law that the first appeal is a substantial right available to the aggrieved party and the petitioner, in exercise of that substantial right, filed an appeal



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challenging the dismissal of the obstruction petition in A.S.No.4 of 2026 before the Sub Court, Oddanchatram. When the appeal is pending, the First Appellate Court ought not to have gone into the merits of the case and dismissed the stay petition. The same would amount to virtually disposing of the First Appeal itself. Therefore, this Court is inclined to interfere with the order impugned in this revision.

7. However, taking into consideration that the respondent obtained a decree for possession as early as 1998, this Court is inclined to direct the petitioner to advance arguments in the first appeal on the next date of hearing, i.e., 25.08.2026. The First Appellate Court shall endeavour to dispose of the First Appeal on its own merits on or before 15.09.2026. Until the disposal of the First Appeal, the further proceedings in E.P.No.7 of 2023 on the file of the District Munsif Court, Oddanchatram, shall be kept in abeyance.

8. Both parties are directed to advance their arguments without unnecessarily seeking an adjournment. Both parties shall co-operate with the First Appellate Court for the disposal of the appeal within the timeline fixed by this Court. In case the petitioner fails to advance her arguments on the next date of hearing, the benefit of this order shall not enure to her and the Execution Court shall be at liberty to proceed with the Execution Petition. It is needless to



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say that the First Appeal shall be disposed of by the First Appellate Court without being influenced by any observation made in this order.

9. With the above terms, this Civil Revision Petition is disposed of.

Consequently, connected Miscellaneous Petition is closed. No costs.

06.08.2026

NCC : Yes / No

Index : Yes / No

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S.SOUNTHAR, J.

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