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CRP NPD.No.2570 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 27.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.2570 of 2025 & CMP.No.14630 of 2025

1. Ramakrishnan
2. Paramasivam
3. Jeenathbeevi
4. Vijayarani
5. Arputham
6. Usha
7. Ashabonday
8. Nageswari
9. Elumalai
10. Arumugam
11. Balkisbegam
12. Ranganathan
13. Rakesh
14. Murugesan
15. Jayavel
16. Subramani
17. Kala

. . . Petitioners

Versus

1. Rathidevi
2. Jayaraman
3. Raja
4. Kannappanar



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5. Selvi

6. Ramachandran

7. Abdul Razheeth

8 M.Perumal

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to direct the learned Principal Subordinate Judge, Villupuram to enforce the memo dated 10.12.2024 filed in E.P.No.144 of 2024 which is pending disposal of I.A.No.12 of 2019 in I.A.No.290 of 2011 in O.S.No.116 of 2019 on the file of the Second Additional Subordinate Judge, Villupuram.

For petitioners : Mr.R.Chitti Babu

ORDER

This revision petition has been filed to direct the Subordinate Judge, Villupuram to enforce the memo dated 10.12.2024 filed in the Execution Petition in E.P.No.144 of 2024 pending disposal in I.A.No.12 of 2019 in I.A.No.290 of 2011 in O.S.No.116 of 2019 on file of the II Additional Subordinate Judge, Villupuram.

2. It is the case of the petitioner that an exparte final decree has been



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passed against him on 24.02.2019 in O.S.No.116 of 2019 and he had filed an application in I.A.No.12 of 2019 to condone the delay along with an application under Order IX Rule 13 of Code of Civil Procedure and the same is pending. In the meanwhile, the decree holder had filed the Execution Petition in E.P.No.144 of 2024. Therefore, he had filed a memo to stay the execution proceedings till the disposal of the applications filed to condone delay in filing an application to set aside the exparte decree and to set aside the exparte decree. Now, he seeks to enforce the memo filed by the petitioner in the execution petition.

3. At the outset, this Court is of the view that by filing a memo, one cannot seek an Order. Any Order to be passed will be by way an interlocutory application, which has to be filed with necessary Court Fee. As per Rule 29 of the Civil Rules of Practice, every interlocutory application shall be headed with the cause title of the plaint, original petition, or appeal as in Form No. 13. Similarly Rule 45 deals with the original petition, an original petition shall, in addition to the particulars required by Rules 7 and 8 also state the Act or other Authority under which it is presented as in Form Nos.5 and 6. Therefore,



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every application has to be filed before the Court along with either verify petition or affidavit. By filing just a memo, as a matter of right one cannot seek Orders staying the other applications. If at all the petitioner is aggrieved over any Order, he ought to have sought stay of the execution proceedings by filing necessary interlocutory application under Order 21 Rule 26. Instead of doing so, a memo is not sufficient to stay any application. Hence, I do not find any merits in this revision.

4. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2025

Index : Yes / No
Internet: Yes
Speaking/non speaking order

VRC

To,

The II Additional Subordinate Judge,
Villupuram.

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N. SATHISH KUMAR, J.

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