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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**C.R.P. No.3006 of 2025**

**and**

**C.M.P. No.16869 of 2025**

Chinnadurai Rajan

..1<sup>st</sup> Respondent / 1<sup>st</sup> Defendant /

Petitioner

Vs.

1.K.Paneer Selva

..Petitioner / Plaintiff / 1<sup>st</sup> Respondent

2.Jayanthi

3.Jeyapaul

..Respondents 2 & 3 / Defendants 2 & 3 / Respondents 2 & 3

**PRAYER:** This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside order dated 18.06.2025 passed in E.P.No.314 of 2019 in O.S.No.175 of 2017 on the file of the Principal Subordinate Court, Kancheepuram.

|                 |                                             |
|-----------------|---------------------------------------------|
| For Petitioner  | Mr.P.Mani                                   |
| For Respondents | Mr.S.Ganesh for R1<br>Not Ready for R2 & R3 |



## **ORDER**

Heard Mr.P.Mani learned counsel for the petitioner and Mr.S.Ganesh learned counsel for the 1<sup>st</sup> respondent.

2.The present revision challenges the order of delivery passed by the executing Court pursuant to the decree passed in O.S.No.175 of 2017 on the file of the Principal Subordinate Court, Kancheepuram.

3.Mr.P.Mani, learned counsel for the petitioner, would submit that the petitioner has already taken out an application to set aside the exparte decree along with the application to condone the delay and both the applications are numbered and pending enquiry. He therefore submits that the said applications can be disposed of as the fate of the said applications would have direct bearing on the execution proceedings.

4.Per contra, Mr.S.Ganesh, learned counsel for the 1<sup>st</sup> respondent would submit that, even in the execution petition the petitioner was set exparte and an application was filed to set aside the exparte order and the



same was dismissed as early as on 17.10.2023. Thereafter, the petitioner moved an application for stay and that application was also dismissed on 11.06.2025. It is therefore the contention of the learned counsel that there is absolutely no infirmity in the order of delivery. Further, he would point out that pending the present revision, the petitioner had the benefit of interim stay. However, the said interim order was not extended. The same was brought to the notice of the executing Court and the executing Court has passed an order on 29.10.2025 ordering delivery and payment of batta within in a period of one week, returnable by 03.11.2025 and it is therefore the contention of Mr.S.Ganesh that the revision which challenges the order dated 18.06.2025 has become infructuous, since the subsequent order of delivery has been passed on 29.10.2025. He therefore prays for dismissal of the revision petition.

5.I have carefully considered the submissions advanced on either side.

6.No doubt the petitioner made attempts to stall the execution proceedings and all his attempts were unsuccessful. However, in the



meantime, the petitioner has taken out the applications to condone the delay and to set aside the exparte decree passed in the suit. In the said applications, the 1<sup>st</sup> respondent being the contesting respondent / plaintiff has filed the counter. However, the applications have been kept pending on account of non-service on respondents 2 and 3, who are only co-defendants and not necessary parties to decide the application to set aside the exparte decree and for condonation of delay.

7.The suit is one for recovery of possession and hence, in the light of there being an attempt made by the 1<sup>st</sup> defendant / petitioner to set aside the exparte decree, I am inclined to dispose of the revision in the manner to protect the interest of both parties. The impugned order is confirmed. However, the 1<sup>st</sup> respondent shall not execute the order of delivery for a period of three weeks.

8.The Principal Subordinate Court, Kancheepuram, shall dispose of I.A.No.1 of 2023 and I.A.No.2 of 2024 expeditiously, without waiting for service of notice on the respondents 2 and 3, after hearing arguments of the petitioner and the 1<sup>st</sup> respondent / plaintiff alone. The said applications shall



be disposed by a common order within a period of three weeks from the date of receipt of a copy of this order and subject to the result of the said applications, the respondent is entitled to proceed the decree.

9.It is brought to my notice that the applications have now been adjourned to January 2026, in view of the pending of this revision. It is open to either of the learned counsel to file a memo and the learned Principal Subordinate Judge, Kancheepuram, shall suo motu advance the hearing to enable compliance of the directions issued in the Civil Revision Petition.

10.Accordingly, the Civil Revision Petition stands dismissed with the above directions. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

**13.11.2025**

smv  
Index :Yes/No  
Neutral Citation :Yes/No  
Speaking order :Yes/No

To  
The Principal Subordinate Court, Kancheepuram,



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**P.B. BALAJI, J.**

smv

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