



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

C.R.P. No.5652 of 2025

and

C.M.P.No.28285 of 2025

M/s.KPK Hotels Private Limited

Rep. by its Director Mr.K.P.K.Selvaraj,

Registered Office at : KPK Trade Centre,

No.27, Kandasamy Street,

Tiruppur – 641 604

..Petitioner

Vs.

1.M/s.Sree Finance Company

Rep. by its Partner

Mr.A.S.Natarajan,

No.13, Vital Das Sait Street,

Tiruppur – 641 604.

2.M.Ganesan

..Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the



Civil Procedure Code, to direct the Principal Subordinate Judge, Tiruppur to number the unnumbered EACFR No.12948 of 2025 dated 27.10.2025 filed in E.P.No.31 of 2007 in O.S.No.523 of 1997 on the file of the Principal Subordinate Court, Tiruppur by allowing this Civil Revision Petition.

For Petitioner	Mr.N.Jothi, Senior Counsel
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ORDER

The petitioner is a third party to the execution proceedings. The petitioner filed an application under Order XXI Rule 58 CPC. However, the said application came to be dismissed and challenging the same, the petitioner filed a revision before this Court and this Court granted liberty to the petitioner to move a regular appeal while dismissing the revision. In the meantime, the execution petition is being proceeded with and hence, the petitioner moved an application under Order 21 Rule 26 CPC., for grant of stay for a limited period to enable the petitioner to move the appellate Court for suitable interim orders. The executing Court has returned the said



application as not maintainable.

2.Mr.N.Jothi, learned Senior Counsel, would submit that the petitioner being a third party and his appeal also pending consideration, though at the stage of condonation of delay, the valuable rights of the petitioner cannot be taken away by proceeding with the execution petition.

3.In similar circumstances, this Court in CRP No.2553 of 2025 vide order dated 26.06.2025 has granted interim protection, where the petitioner was, in fact, the judgment debtor himself.

4.Mr.N.Jothi, learned Senior Counsel, would seek similar indulgence to be shown and especially when the petitioner in the present case stands on a better footing, being a third party to the execution proceedings.

5.This Court, in and by the said order, had directed the



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executing Court to number the application filed by the petitioner and dispose of the same on merits, as refusing to number the application, amounted to shirking its responsibility.

6. In the present case, I find that the petitioner has sought for an interim stay invoking Order XXI Rule 26 CPC., which enables the executing Court to grant stay on sufficient cause being shown, for reasonable time, to enable the judgment debtor to apply to the Court by which the decree was passed or to the Court having appellate jurisdiction in respect of the decree of the execution thereof, for an order to stay execution.

7. Here, as already found, the petitioner is a third party and he had already made an attempt to object to the execution petition by way of filing an application under Order XXI Rule 58 CPC and now the said order is under challenge before the appellate authority and it is at the stage of considering the delay in filing the said appeal.

8. In the light of the above, I do not see how the petition under Order XXI Rule 26 CPC can be returned as not maintainable. Following the



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decision of this Court in CRP No.2553 of 2025 dated 26.06.2025, I am inclined to allow the revision, granting stay of the execution petition for a period of eight weeks and in the meantime, the executing Court shall number the application filed by the petitioner under Order XXI Rule 26 CPC and dispose of the same on merits and in accordance with law. Since, the application has been filed challenging an order returning the petition even at the numbering stage, I am inclined to dispense with notice to the respondents. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

14.11.2025

smv

Index :Yes/No

Neutral Citation :Yes/No

Speaking order :Yes/No

To

The Principal Subordinate Court, Tiruppur.

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P.B. BALAJI, J.

smv

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