



CRP.(MD).No.614 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CRP.PD.(MD).No.614 of 2025

against

E.A.No.3 of 2025

in

E.P.No.24 of 2021

in

O.S.No.67 of 2013

and

CMP(MD).Nos.3341 & 3340 of 2025

Abarna

.. Petitioner/1st Petitioner/
1st Respondent/ 1st Defendant

Vs.

Mani Kandan [Died]

1.Thara
2.Birundha
3.Indhu
4.Karthik

..Respondents 2 to 4/ Petitioners 2 to 4/
Respondents 2 to 4/ Defendants 2 to 4

Prayer: This civil revision petition has been filed under Section 115 of the Civil Procedure Code, 1908 to set aside the impugned docket order dated 07.02.2025 made in E.A.No.3 of 2025 in E.P.No.24 of 2021 on the file of the learned II-Additional Subordinate Judge, Tiruchirappalli.



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For Petitioner : Mr.M.S.Jeyakarthik

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ORDER

The first defendant in O.S.No.67 of 2013 on the file of the learned Subordinate Judge, Dharmapuri who had suffered an ex-parte decree has filed the above said revision challenging the order passed in E.A.No.3 of 2025 wherein the request of the petitioner to stay the execution proceedings till the petition to set aside *ex-parte* decree is decided. The first respondent herein had filed the above said suit for the relief of recovery of money, the suit was decreed ex-parte on 06.11.2019.

2. The first defendant had filed I.A.No.1 of 2025 in O.S.No.67 of 2013 on the file of the learned Sub-Ordinate Judge, Dharmapuri under Section 5 of the Limitation Act, 1963 to condone the delay of 1854 days in filing of an application under Order 9 Rule 13 of Code of Civil Procedure, 1908, the said application is still pending.

3. In the meantime, the decree-holder has filed E.P.No.24 of 2021 to recover a sum of Rs.8.75/- Lakhs. The judgment-debtor after having entered appearance, in the said EP has filed E.A.No.3 of 2025 to stay the



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EP pending disposal of I.A.No.1 of 2025 in O.S.No.67 of 2013. The Executing Court in its docket order dated 07.02.2025 has observed that the stay petition could be considered only when the judgment debtor pays a sum of Rs.8.75 Lakhs. Challenging the said docket order, the present civil revision petition has been filed.

4. According to the learned counsel for the petitioner, without hearing both the parties in E.A.No.3 of 2025 the Court had passed a final order, by way of certain observations. This docket order has been passed on 07.02.2025 directing the judgment-debtor to deposit a sum of Rs. 8.75/- Lakh for even considering the said application on merits. He prayed for setting aside the docket order.

5. On perusal of the records, it reveals that the respondent decree-holder herein is yet to file his counter in I.A.No.1 of 2025 and it is posted for hearing on **20.03.2025**. In such circumstances, instead of considering the stay petition in E.A.No.3 of 2025, the trial Court could proceed to dispose of the said I.A.No.1 of 2025. The trial Court is directed to



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disposed of the said I.A.No.1 of 2025 on or before 30.04.2025. Till such time the execution proceedings in E.P.No.1 of 2025 shall be kept in abeyance.

6. With the said observations and directions, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

03.03.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

nst

To

1.The

II-Additional Subordinate Judge,
Tiruchirappalli.

2.The Section Officer,

VR Record Keeper,
Madurai Bench,
High Court of Madras.



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R.VIJAYAKUMAR,J.

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