



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)No.1864 of 2025

and

C.M.P.(MD)No.10308 of 2025

1.Rajendran

2.Jeyanthi

...Petitioners

Vs.

Sivasubramaniyan

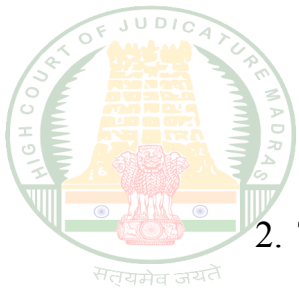
...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 CPC to set aside the fair order dated 31.01.2025 passed by the Sub Court, Thuraiyur in E.A.No.1 of 2024 in E.P.No.40 of 2024 in O.S.No.111 of 2019.

For Petitioners : Mr.M.Ramkumar

ORDER

This Civil Revision Petition has been filed to set aside the fair order dated 31.01.2025 passed by the Sub Court, Thuraiyur in E.A.No.1 of 2024 in E.P.No.40 of 2024 in O.S.No.111 of 2019.



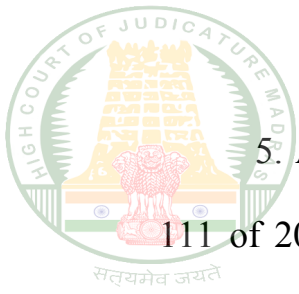
2. The respondent filed a suit in O.S.No.111 of 2019 on the file of the

Sub Court, Thuraiyur, seeking recovery of possession against the petitioners.

The suit was decreed ex parte on 12.07.2023, directing the petitioners to vacate the premises and also to pay a sum of Rs.1,10,000/- towards use and occupation charges with interest. To execute the ex parte decree, the respondent initiated execution proceedings in E.P.No.40 of 2024. The petitioners, in turn, filed E.A.No.1 of 2024 seeking stay of the execution proceedings. The said application was dismissed by the trial Court on 31.01.2025. Challenging that dismissal, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioners submitted that they have already filed a petition to condone the delay in setting aside the ex parte decree along with a restoration petition, which is pending at the SR stage and yet to be numbered. It is contended that proceeding with execution before disposal of the restoration and delay condonation petitions is not proper, and hence, the order dismissing the stay application warrants interference.

4. Since no adverse orders are going to be passed against the respondent, notice to the respondent is dispensed with.



5. Admittedly, the ex parte decree was passed on 12.07.2023 in O.S.No. 111 of 2019. The respondent has filed E.P.No.40 of 2024 to execute the said decree, and the petitioners sought stay of the execution by filing E.A.No.1 of 2024. As rightly observed by the trial Court, a mere filing of a delay condonation or restoration petition, which is still pending at the SR stage and not even numbered or admitted, cannot by itself be a ground to stay execution of a legally valid and subsisting decree. Unless and until the ex parte decree is set aside by the competent Court, the decree is binding and executable. Further, more than a year has passed since the ex parte decree, and the petitioners have not taken any effective steps to get the suit restored. The execution proceedings cannot be stalled indefinitely on the basis of unnumbered petitions which are not even taken on file.

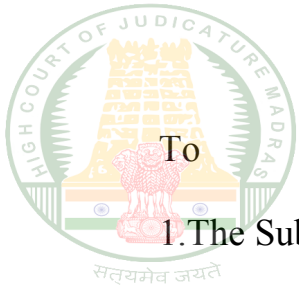
6. In view of the above discussion, this Civil Revision Petition is dismissed. However, liberty is granted to the petitioners to pursue their delay condonation and restoration petitions in accordance with law, if they are so advised. No costs. Consequently, the connected miscellaneous petition is closed.

09.07.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1. The Sub Court, Thuraiyur.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI, J.

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