



CRP(MD). No.2658 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.09.2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

**CRP(MD). No.2658 of 2025
and
CMP(MD)No.15604 of 2025**

P.Nagarajan

... Petitioner

Vs.

1. S.Nagarathinam

2. N.Muthukumar Alias Vinoth

... Respondents

PRAYER :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 29-08-2025 passed in I.A.No.02 of 2023 in A.S.No.6 of 2023 on the file of the Subordinate Court, Kulithalai dated 29-08-2025 and allow the civil revision petition.

For Petitioner : K.Gokul

For Respondents : Mr.K.Govindarajan,
for Mr.B.Ponnu Pandi



CRP(MD), No.2658 of 2025

WEB COPY

ORDER

The petitioner has filed this Petition to set aside the fair and decreetal order dated 29.08.2025 passed in I.A.No.02 of 2023 in A.S.No. 6 of 2023 on the file of the Subordinate Court, Kulithalai.

2. The learned counsel for the ptitioner would contend that the petitioner herein initiated a suit for permanent injunction, in which the respondent had also made a counter claim for recovery of possession of the property on payment of Rs.83,000/-. He would further submit that the trial Court had dismissed the suit filed by the petitioner and had decreed the counter claim of recovery of possession claimed by the respondent against which, the petitioner had preferred independent first appeals as against the dismissal of the suit as also decree of the counter claim filed by the respondent. When the petitioner had sought for interim protection the respondent had filed an execution petition, in which the respondent had sought for delivery of possession based upon the decree in the counter claim. However, the first Appellate Court without considering the case of the petitioner, had dismissed the stay application. On the



CRP(MD), No.2658 of 2025

dismissal of the stay application, the Exeucting Court is proposing to handover the possession by proceeding with the E.P further. Therefore, he had challenged the order rejecting the stay application.

3. Mr.K.Govindarajan, learned counsel appearing for the respondents, on the other hand, would submit that the petitioner in his plaint had admitted that he had been given possession of the property on the money advanced to him and as such enjoyment was given to him in view of the interest for the said money. Now, that the respondent had deposited Rs.83,000/- as claimed by the petitioner in his claim and he is entitled for recovery of possession. Therefore, he would submit that there is no error in the order rejecting the stay application and he is entitled for delivery of possession and therefore, prayed this Court to dismiss the Civil Revision Petition.

4. I have considered the arguments advanced by the learned counsel on either side and perused the materials available on record.



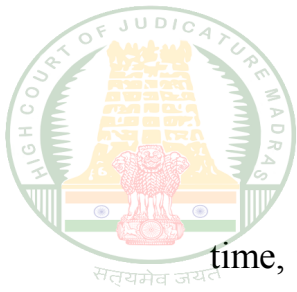
CRP(MD), No.2658 of 2025

WEB COPY

5. As against the judgment and decree passed in the suit and the counter claim, the petitioner has filed an appeal suit. This factum is not disputed by the learned Counsel for the respondents.

6. Considering the fact that the appeal had been filed as against the judgment and decree and the same is pending on the file of the first Appellate Court, this Court is of the considered view that the first Appellate Court can be directed to dispose of the Appeal suit filed by the petitioner as against which the judgment and decree made in O.S.No.8 of 2012 on the file of the District Munsif, Kulithalai, and the counter claim filed by the respondent within a period of eight weeks from the date of receipt of copy of this order and until the disposal of the said appeal suit, the Executing Court can keep in abeyance, the execution petition.

7. In such view of the matter, this Court directs the Subordinate Judge, Kulithalai to dispose of the Appeal Suit filed by the petitioner as against the judgment made in O.S.No.8 of 2012 on the file of the District Munsif, Kulithalai, and the counter claim made therein within a period of eight weeks from the date of receipt of a copy of this order. Till such



CRP(MD), No.2658 of 2025

time, the Exeucting Court is requested to keep the E.P filed, pursuant to the decreetal order passed in the counter claim in O.S.No.8 of 2012 on the file of the District Munsif, Kulithalai, in abeyance.

8. The Civil Revision Petition is disposed of, on the above terms. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

25.09.2025

Index : Yes / No
Internet : Yes / No
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TO

1. The Subordinate Judge,
Kulithalai.
- 2.The District Munsif,
Kulithalai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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CRP(MD), No.2658 of 2025

K.KUMARESH BABU,J.

LS

CRP(MD) No.2658 of 2025

25.09.2025