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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 1897 of 2026

CNR:{HCMA010474662026}

AND

CMP NO. 8522 OF 2026,CMP NO. 8526 OF 2026

S.Sivaraman

..Petitioner(s)

Vs

1.K.V.Sumathi
2.B.Bala Baskaran
3.Sukanya Chandrasekaran

..Respondent(s)

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 23.1.2026 passed by the Hon'ble XXVI Assistant City Civil Court, Chennai and consequential order dated 02.03.2026 passed after filing of this CRP and consequently direct the Respondents herein to restore the schedule property to its actual position as existed prior to the impugned order dated 23.01.2026 and pass such further or other orders as this Court.

For Petitioner(s): Ms.Vidya
for Viruksham Legal

For Respondent(s): M/s.C.P.R.Kamaraj
for R1
R2 and R3 - Service Awaited

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Order

This Civil Revision Petition is filed challenging the order passed by the Executing Court allowing the Execution Petition filed by the respondents/decree holders seeking execution of the decree for mandatory injunction.

2. The learned counsel appearing for the petitioner/judgment debtor would submit that challenging the original decree passed by the trial Court, the petitioner preferred an appeal in A.S.No.129 of 2025 on the file of the XVIII Additional Judge, City Civil Court, Chennai and the same is pending. The respondents/decree holders suppressing the pendency of the first appeal filed by the petitioner obtained the order for execution of decree for mandatory injunction and therefore, the same is liable to be set aside.

3. It is seen from the documents filed in the typed set of papers that the original decree passed by the trial Court was challenged by the petitioner and the appeal has been presented on 02.06.2025, subsequently, the same was numbered as A.S.No.129 of 2025 and registered on 02.07.2025. It is also seen that notice has been ordered to the respondents in the First Appeal. The notice taken to the 3rd respondent was refused and notice was served on the respondents 1 and 2.

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4. The counsel by name Mr.C.P.R.Kamaraj entered appearance for the respondents 1 and 2 as early as on 22.10.2025. The main grievance of the petitioner appears to be the pendency of the appeal, though very well within the knowledge of the respondents, the same has not been brought to the notice of the Executing Court and the Executing Court by impugned order allowed the execution application, after recording that no appeal was pending and no stay was granted. It is also brought to the notice of this Court that subsequent to the impugned order, the offending construction found in the suit property has been demolished as per Clause 2 of the judgment. Therefore, the decree for mandatory injunction has been already executed.

5. Even tough there is some force in the submissions made by the learned counsel for the petitioner that the pendency of the appeal filed by the petitioner has not been brought to the notice of the Execution Court by the respondents, mere pendency of the appeal will not automatically stay the Execution Proceedings.

6. It is not in dispute the petitioner has not obtained any stay from the appellate forum till date. Therefore, non mentioning of pendency of the appeal will not materially affect the impugned order passed by the Executing Court. In any event, subsequent to the impugned order, clause 2 of the decree has been executed and the alleged offending construction has been removed.

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7. In such circumstances, the prayer sought for in the revision cannot be considered at this belated stage, after execution of the decree of mandatory injunction.

8. Therefore, I do not find any reason to interfere with the impugned order and the Civil Revision Petition stands dismissed and both the parties are at liberty to workout their remedies in the pending appeal. No costs. Consequently, connected miscellaneous petitions are closed.

28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To
The XXVI Assistant City Civil Court,
Chennai.

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S.SOUNTHAR J.

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