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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

Case QR

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 7002 of 2026 and

CMP No.30082 of 2026

CNR: {HCMA012669812026}

M.Krishna Kumar, S/o e.K.Mohanasundaram,
No.49/3, Vasantham Street,
Arul Velavan Nagar, Erode, 638 004

..Petitioner(s)

Vs

S.Mohamed Anas, S/o E.K.M.A.Mohamed
Shahabudeen, No.23/125,
Meenakshi Sundaram Road,
Thirunagar Colony, Erode, 638 003.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of CPC to set aside the Docket Order dated 27.10.2026 in E.P. No. 57 of 2025 in O.S. No. 793 of 2023 on the file of the Learned 1st Additional Subordinate Judge, Erode District and allow the above C.R.P.

For Petitioner(s): Mr. S.Mukunth, Senior Counsel
for Mr.M.Karthik

For Respondent(s): Mr.Ranganath Ganesh

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ORDER

This Civil Revision petition has been filed , challenging the order passed by the Executing Court, directing the respondent/decree holder to pay batta for effecting delivery.

2. Mr.Ranganath Ganesh, learned counsel takes notice for the respondent.

3. It is not in dispute that the respondent/decree holder obtained a decree for recovery of vacant possession of the property and for arrears of rents in O.S.No.793 of 2023. The said decree was passed on 06.01.2025. Challenging the said decree, the petitioner/ judgment debtor filed an appeal with a delay before the first appellate court. The said condone delay petition was allowed and now, the appeal has been numbered as A.S.No.26 of 2026 and pending on the file of I Additional District Judge, Erode, along with a stay petition filed by the petitioner in I.A.No.3 of 2026, seeking stay of the execution of the decree passed in O.S.No.793 of 2023. The said stay petition has been posted for hearing n 30.11.2026. In the meantime, the respondent/decree holder pressed for execution of the decree and hence, the Executing Court, by impugned order, directed the respondent/decree holder to pay batta for effecting delivery. Aggrieved by the same, the present civil revision petition has been filed.

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4. The first appeal is the substantial right available to the aggrieved party. The petitioner already filed an appeal in A.S.No.26 of 2026 along with a stay petition in I.A.No.3 of 2026 and the stay petition is coming up for hearing on 30.11.2026. In the meantime, by the impugned order, the Executing Court directed the respondent to pay batta for effecting delivery.

5. Taking into consideration the facts and circumstances of the case, this court is inclined to direct the first appellate court, namely I Additional District Judge, Erode to dispose of the stay application by filed by the petitioner in I.A.No.3 of 2026 in A.S.No.26 of 2026 on its own merits, on or before 07.12.2026, by giving sufficient opportunity to the petitioner as well as the respondent. Till the disposal of the said stay petition, the Execution proceedings shall be kept in abeyance.

6. The learned counsel for the respondent submits that as per the decree, the petitioner/judgment debtor is liable to pay the rental arrears of more than Rs.7,00,000/-. However, the learned counsel for the petitioner would submit that a portion of the amount has already been paid and as on today, the admitted arrears of rent is only Rs.2,35,000/-.

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7. There is a dispute with regard to the arrears of rents/profits payable by the petitioner as per the decree. The said dispute of question can be argued by both the parties in the pending stay petition before the first appellate court. The petitioner admitted that he is liable to pay arrears of rents/profits to the tune of Rs.2,35,000/- to the respondent as per the decree. Therefore, the petitioner is directed to pay the above said amount of Rs.2,35,000/- to the respondent directly, on or before 18.11.2026, failing which, the benefit of the order passed in this civil revision petition will not enure to the petitioner. At the time of considering the stay petition, the first appellate court, by taking into consideration the submission made by both the parties, shall pass appropriate orders with regard to the arrears of rents payable by the petitioner to the respondent.

8. With the above directions, this civil revision petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

04-11-2026

Note: **Issue order copy today (04.11.2026)**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The I Additional District Judge,
   Erode.

2. The I Additional Subordinate Judge,
   Erode District.

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S.SOUNTHAR, J.

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