



C.R.P.(MD)No.25 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.25 of 2026

and

C.M.P.(MD)No.131 of 2025

1.Kuruvammal
2.Gopalakrishnan
3.Krishnaveni
4.Vijayakumar
5.Mahalakshmi

... Petitioners

-VS.-

Jayalakshmi

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order passed by the Additional District Munsif Court, Aruppukottai in E.A.No.3 of 2025 in E.P.No. 8 of 2025 in O.S.No.55 of 2008, dated 08.12.2025.

For Petitioners :Mr.K.Prabhu
For Respondent :Ms.J.Roshini



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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned Additional District Munsif, Aruppukottai in E.A.No.3 of 2025 in E.P.No.8 of 2025 in O.S.No.55 of 2008, dated 08.12.2025.

2.Heard Mr.K.Prabhu, learned Counsel for the Revision Petitioner and Ms.J.Roshini, learned Counsel for the respondent.

3.Originally, a suit was filed by the respondent before the Additional District Munsif Court, Aruppukottai, for permanent injunction and for other reliefs against the petitioners and others. The said suit was decreed vide judgment and decree dated 03.06.2023. Thereafter, the plaintiff/decreed holder has filed an Execution Petition in E.P.No.8 of 2025 on 16.04.2025. Challenging the judgment and decree passed in the suit, the petitioners herein have filed an appeal along with a delay condonation application in I.A.No.1 of 2025 before the first appellate Court. During the pendency of the execution proceedings, the petitioners, who are the defendants 3 to 7 in the suit, have filed an application in E.A.No.3 of 2025 to stay the execution proceedings.



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The learned Additional District Munsif, Aruppukottai, vide impugned order, dated 08.12.2025, had dismissed the said application on the ground of delay and laches and the petitioners have not made out a case for granting interim stay of the execution proceedings. Challenging the same, the present Civil Revision Petition has been filed.

4.The learned Counsel for the petitioner contended that challenging the judgment and decree passed in the suit, the petitioners herein have filed an appeal along with a delay condonation application, which is pending for consideration. He further submitted that the application filed by the petitioners before the Executing Court is only for staying the execution proceedings for a limited period till the consideration of the delay condonation application and in the event of numbering the appeal, the petitioners can very well obtain an order of stay from the first appellate Court. He further submitted that if any order passed in the execution proceedings, it will cause irreparable loss to the petitioners and only for a limited period, the petitioners have filed an application for staying the execution proceedings. However, without even considering the provisions of law, the Court below has erroneously passed the



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impugned order, which is *per se* illegal. He also submitted that this Court may allow the application filed by the petitioners for the interest of justice and the petitioners have a fair chance of getting the judgment and decree in their favour in the first appeal. Hence, he seeks interference of this Court.

5.*Per contra*, Ms.J.Roshini, learned Counsel for the respondent submitted that the revision petitioner, who lost the suit, has not preferred the appeal suit within the limitation period, as guaranteed under the Limitation Act. The learned Counsel for the respondent further submitted that the appeal was not filed within the statutory period of thirty days and therefore, the first appeal was filed with a delay of 692 days, which is a period of two years and the condonation of delay is yet to be decided by the first appellate Court. She also submitted that the execution proceedings cannot be stalled indefinitely by citing the reason that an appeal is filed. In this case, the petitioners have not even filed the appeal in time and the appeal is pending in the delay condonation stage and that the Court below has rightly dismissed the application filed by the petitioners, which does not warrant interference of this Court.



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6.The learned Counsel for the respondent relied upon a judgment of Hon'ble Supreme Court in the case of ***Periyammal (Dead) and others vs V.Rajamani and another***, reported in ***(2025) 9 SCC 568***, wherein, the Hon'ble Supreme Court, by referring to the observations made in ***Rahul S.Shah vs Jinendra Kumar Gandhi*** reported in ***(2021) 6 SCC 418***, has held as follows:

“42.10. The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A.

42.11. Under Section 60 CPC the term “... in name of the judgment-debtor or by another person in trust for him or on his behalf” should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

42.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

42.13.The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.”



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7.This Court considered the submissions made on either side and perused the materials available on record.

8.Admittedly, the suit filed by the respondent for permanent injunction and for other reliefs got decreed in favour of the respondent and thereafter, the respondent has also filed an Execution Petition to execute the decree. The judgment debtors/petitioners herein have filed an appeal along with an application to condone the delay in filing the appeal. From the perusal of the records, the said delay condonation application is still pending. In the interregnum, the petitioners herein have filed an application in EA.No.3 of 2025 in E.P.No.8 of 2025 under Order XXI Rule 26 CPC to stay the execution proceeding for a period of four months. Admittedly, the petitioners have filed the appeal with a delay of 692 days. In the application filed before the Executing Court, the petitioners have not stated a valid reason for the delay and mere filing of an appeal will not preclude the Executing Court to proceed further. Since, the petitioners have not obtained an order of stay from the appellate Court, there is no bar for the executing Court to proceed further. Therefore, as per the direction of the Hon'ble Supreme Court, as stated supra,



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the Executing Court are duty bound to conclude the execution proceedings within a period of six months and merely filing of an appeal, cannot be a ground to stall the execution proceedings. Filing of an appeal with an inordinate delay and filing a petition before the Executing Court to stay the execution proceedings is nothing but a delayed tactics and only to drag on the proceeding, which cannot be allowed. Further, the Court below after considering the entire facts and materials available on record has rightly rejected the application filed by the petitioners and this Court does not find any infirmity or irregularity.

9.In the result, Civil Revision Petition is dismissed and the order passed by the learned Additional District Munsif, Aruppukottai in E.A.No.3 of 2025 in E.P.No.8 of 2025 in O.S.No.55 of 2008, dated 08.12.2025, is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC :Yes/No
Index :Yes/No
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To

The Additional District Munsif, Aruppukottai.



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N.SENTHILKUMAR, J.

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