



C.R.P.(MD)No.1329 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **03.06.2026**

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(MD)No.1329 of 2026 &
C.M.P.(MD)No.6278 of 2026

A.Vishnuvarthan

...Petitioner

vs.

Thankalekshmi

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 23.03.2026 in E.A.Sr.No.1339 of 2026 in E.P.No.1 of 2025 in O.S.No.44 of 2017 on the file of the Subordinate Judge's Court, at Padmanabhapuram, by allowing the present Civil Revision Petition.

For Petitioner : Ms.S.Kaviya



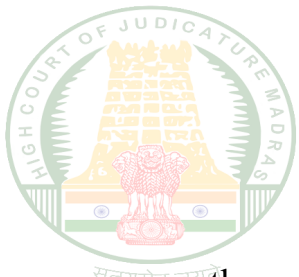
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ORDER

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The civil revision petitioner is the judgment debtor. He suffered a decree in O.S.No.44 of 2017 on the file of the Subordinate Judge, Padmanabhapuram. The decree was passed on 08.12.2021. Aggrieved by the said decree, he had preferred a regular appeal to the Principal District Judge, Kanyakumari at Nagercoil in A.S.No.13 of 2022. As the decree has not been kept in abeyance by the learned Appellate Judge, the successful plaintiff / decree holder presented E.P.No.1 of 2025, seeking attachment and sale of the petition mentioned property. In the said Execution Petition, the civil revision petitioner / judgment debtor was served. He did not file a counter. Consequently, he was set exparte on 14.07.2025.

2. To set aside the order, he moved an application under Order XXI Rule 106 of the Code of Civil Procedure on 23.02.2026. This application was returned by the learned Subordinate Judge / Executing Court, referring to the proceedings issued in Roc.81478-A/2025/F1 which directed the Trial Court not to number the application under Order XXI Rule 106 of the Code of Civil Procedure, in case they did not fall within



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the scope of Order XXI Rule 106(3). Challenging the same, the present
revision.

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3. Heard Ms.Kaviya for the civil revision petitioner.

4. She urged that the petitioner is a member of armed forces working with the National Security Guard in the frontier region of Jammu and Kashmir. Since he was away at the border protecting the nation, he was not in a position to appear before the Court and file a counter. Therefore, she seeks for a direction to number the application under Order XXI Rule 106 of the Code of Civil Procedure.

5. I have carefully considered the submissions of Ms.Kaviya. I have gone through the records.

6. The provision of law under Order XXI Rule 106 of the Code of Civil Procedure is clear. If a summon is served in the Execution Petition and the judgment debtor does not contest the matter, the Court is duty bound to set him exparte and proceed further. The provision itself



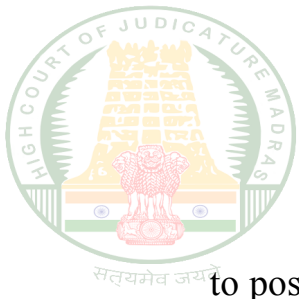
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contemplates 30 days period to file an application under Order XXI Rule 106 of the Code of Civil Procedure. In case no application is filed, the judgment debtor is barred from filing an application thereafter. Therefore, I do not find any error in the order passed by the learned Executing Court.

7. Yet, taking into consideration the plea of Ms.Kaviya that the petitioner is a member of the armed forces, who is protecting the nation's borders by serving at Kashmir, the learned Executing Court is requested to adjourn the Execution Petition by a period of three (3) weeks from the date of receipt of a copy of this order.

8. In the meantime, it is up to the civil revision petitioner / judgment debtor to move an application for stay before the learned Principal District Judge, Kanyakumari at Nagercoil in A.S.No.13 of 2022. In case, no orders of stay are granted by the Appellate Court, the learned Executing Court shall proceed with all expediency as the proceeding require. This Court is not granting a stay of execution proceedings, but is placing a mere request to the learned Executing Court



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to postpone further proceedings in execution by three weeks, considering the nature of work that is being carried on by the petitioner.

9. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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Note: Registry is directed to inform the learned Subordinate Judge, Padmanabhapuram, as regards the directions given in the order by e-mail.

To

1. The Subordinate Judge,
Padmanabhapuram.

2. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.



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V.LAKSHMINARAYANAN, J.

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