



CRP(MD). No.3830 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3830 of 2025
and CMP(MD).No.20174 of 2025**

S.mohuthu

... Petitioner

Vs.

Johnma

... Respondent

PRAYER :-Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order in E.A.No.1 of 2025 in E.P.No.98 of 2024 in O.S.No.394 of 2022, dated 10.10.2025 on the file of the learned IV Additional District Judge, Madurai.

For Petitioner : Mr.R.B.Raja Kumaran

For Respondents : Ms.Karthiga
Legal aid counsel

ORDER

This Civil Revision Petition has been filed challenging the fair and decreetal order passed in E.A. No. 1 of 2025 in E.P. No. 98 of 2024 in O.S. No. 394 of 2022, dated 10.10.2025, on the file of the learned IV Additional District Judge, Madurai.

2.Heard the learned counsel for the petitioner as well as the learned



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counsel for the respondent.

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3.The revision petitioner was set *ex parte* in the suit. There is a delay of 438 days in filing the application to set aside the *ex parte* decree. In the meantime, the respondent/plaintiff filed the execution petition in E.P. No. 98 of 2024. Challenging the same, the revision petitioner filed E.A. No. 1 of 2025 seeking stay of further proceedings in the execution petition. The trial Court dismissed the said application on the ground that, since no order has been passed in the application to set aside the *ex parte* decree, the present application seeking stay of the execution proceedings is not maintainable.

4.The learned Legal Aid Counsel appearing for the respondents submitted that the revision petitioner was set *ex parte* and there was some delay in filing the application to set aside the *ex parte* decree. The said application is still pending and no final order has been passed. In the meantime, the execution petition filed by the respondent is also pending. When both proceedings are pending and have not attained finality, the application filed in the execution proceedings is not maintainable. Therefore, the trial Court has rightly dismissed the application on the ground of maintainability.



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5.A perusal of the records shows that no order has been passed in the application to set aside the *ex parte* decree. Hence, the petitioner cannot seek stay of execution proceedings without getting the *ex parte* decree set aside. Therefore, this Court finds no infirmity in the order passed by the trial Court.

6.In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

7.The Court places on record its appreciation for the commendable efforts of the legal aid counsel for the respondents, namely, Ms.Karthiga, for conducting the case diligently and providing valuable assistance to this Court. The High Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for conducting the cases, within a period of two weeks from the date of receipt of a copy of this order, without fail.

8.Registry is directed to forward a copy of this order to the Legal Aid Committee for information.

Speaking : Yes / No
NCC : Yes / No

17.02.2026



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Internet : Yes / No
Index : Yes / No

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To

- 1.The IV Additional District Judge, Madurai.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.
- 3.The Legal Aid Committee,
Madurai Bench of Madras High Court, Madurai



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N.SENTHILKUMAR, J.

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