

IN THE COURT OF SUBORDINATE JUDGE, ERANIEL.
Present : Tmt. D. Asha Kousalya Shanthini, B.Sc., B.L.,
Subordinate Judge, Eraniel.

Friday, the 27th day of March 2026

E.A.No.3/2026
in
E.P. No.11/2025
in
O.S.No. 178/2022

T. RajasekarPetitioner/Defendant

/Vs/

P. Imman Singh Respondent/Plaintiff

This petition coming up for final hearing before me on 06.03.2026 in the presence of Thiru. N.S.Premkumar, Advocate for the respondent and no representation for the petitioner though Thiru. T. Jayakumar, Advocate is on record for petitioner, this court delivers the following:

ORDER

1. The Petitioner/judgement debtor seeks to stay the further proceedings in E.P. No. 11/2025 till the disposal of the main suit under Order 21 Rule 29 of the Civil Procedure Code.

2. During the enquiry, the learned counsel appearing for the petitioner/judgement debtor/ defendant in the money suit submitted that he suffered an exparte decree in O.S. No. 178/2022 on 11.11.2022 based on which the respondent/plaintiff has filed the execution petition against him. The petitioner submits that he filed a condone delay petition and an exparte set aside petition with written statement in the main suit. The condone delay petition in I.A. No. 7/2025 was dismissed for default on 21.11.2025 and he has filed the restoration petition with delay condontion petition in I.A. No. 9/2026 which is posted for hearing on 27.02.2026 for appearnace of the parties before the trial court namely the Principal Subordinate Court, Nagercoil.

3. The respondent/petitioner /decree holder has filed his counter and the learned counsel appearing for him submitted that the conduct of the petitioner who filed successive applications without any bonafide interest should not be allowed any further. He submitted

that the petitioner has previously filed a delay condonation petition in I.A. No. 5/2023, which was dismissed for default on 05.03.2023 against which he filed I.A. No. 7/2024 to restore I.A. No. 5/2023 that was dismissed for default on 05.03.2025. Similarly, I.A. 7/2024 was dismissed for default on 20.11.2025 and as usual, the petitioner never lost his hope even after repeated dismissal of the restoration applications due his lackadaisical attitude filed I.A. No. 9/2025 to restore I.A. No. 7/2025 that was dismissed for default on 20.11.2025. Hence it is argued that all these dismissals should be taken into account, where the petitioner does not deserve any leniency from this court.

4. During the enquiry, learned counsel appearing for the petitioner did not offer any explanation for the arguments submitted by the respondent, who would only submit that the main E.P. is to be stayed till the disposal of the main suit. Here, this argument is untenable, because, as on date the main suit in O.S. No. 178/2022 is not restored by the trial court and the condone delay petition in I.A. No. 9/2026 for restoration of I.A. No. 7/2025 is to be allowed first and then only the other I.A.s are to be restored for setting aside the ex parte decree passed in the main suit. The condone delay applications and the restoration applications are to be decided on merits by the trial court and hence the petitioner cannot take a definite stand assuming and presuing that the ex parte decree will be set aside, for again taking up the trial in the main suit.

5. Considering all these aspects in toto, the respondent's side submission that the petitioner was not at all interested in pursuing the main suit promptly has come up with the present stay application is only a dragging on technique, where the petitioner is not able to reap the fruits of the decree dated 11.11.2022, cannot be simply brushed aside. In the given factual matrix, for the above said reasons, this court is not inclined to allow the present E.A. as prayed for, where expeditious disposal of the execution petitions is continuously insisted by our Hon'ble High Court and the Hon'ble Apex Court.

In the result, the E.A. is dismissed. No costs.

Pronounced by me in open court on this the 27th day of March, 2026.

Sd/-
Subordinate Judge,
Eraniel.