

IN THE PRINCIPAL SUBORDINATE COURT AT KANCHEEPURAM

PRESENT: THIRU. K.S. ARUN SABHAPATHY, M.A., M.L., D.D.T.P.,
Principal Subordinate Judge.

Wednesday, the 29th day of October, 2025.

EXECUTION APPLICATION NO. 1 OF 2025

IN

E.P. NO. 126 OF 2024

IN

O.S. NO. 107 OF 2008

(CNR NO. TNKP07 – 001700 – 2024)

Myunghwa Automotive India Pvt. Ltd.,

No. 112, Singadivakkam Village, Kancheepuram – 631 561,

Represented by its present Director UK KU HEO.

.....Petitioner/JD6

Versus

1. Kabaleeswari.

2. Jagada.

.....Respondent/Decree Holder

This petition have come up on 08.10.2025 before me for final hearing in the presence of M/s. N. Sivakumar, P. Parthipan, S. Arun Raj, Sasikumar, and D.S. Samraj, learned counsels appearing for the Petitioner, M/s. Y. Thyagarajan, and K. Arumugam, learned counsels appearing for Respondents, upon hearing the submissions of the learned counsels for the Petitioner and the Respondents, and also on perusal of the records, having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order 21 Rule 106(1) read with Section 151 of the Code of Civil Procedure, seeking to set aside the ex parte order dated 18.06.2025 passed in the above Execution Petition as against the 6th Judgment Debtor.

2. CASE OF THE PETITIONER: The petitioner is the 6th Judgment Debtor in the main petition. The present Execution Petition has been filed to enforce the ex parte decree. Although notice in the Execution Petition was duly served and the petitioner had entered appearance through counsel, time was sought for filing a counter statement as certain details were required. However, without granting reasonable opportunity to submit objections, the petitioner was set ex parte on 18.06.2025. The ex parte order has been passed without affording the petitioner an effective opportunity of hearing, which is in violation of the principles of natural justice. The failure to file the counter statement was neither intentional nor deliberate. If the ex parte order is not set aside, the petitioner will be put to severe hardship and irreparable loss. Hence, prayed to set aside the ex parte order dated 18.06.2025 passed against the petitioner in the above Execution Petition.

3. CASE OF THE RESPONDENT: The petitioner has approached this Court with suppression of material facts. The petitioner had earlier filed I.A. Nos. 1 of 2022 and 2 of 2022 challenging the preliminary decree and final decree, including a petition

under Section 5 of the Limitation Act, which were dismissed. The petitioner has not disclosed these facts and is attempting to mislead this Court. The negligence on the part of the petitioner in not defending the execution proceedings cannot now be attributed to their former counsel, especially when no action has been taken against such counsel. The execution proceedings in E.P. No. 126 of 2024 are based on the preliminary and final decrees passed long ago, which are well within the knowledge of the petitioner.

3.1 The petitioner had entered appearance and was aware of the proceedings but intentionally chose not to file a counter, and the default is willful. The present petition has been filed only as a delaying tactic to stall execution. Allowing this petition would cause serious prejudice to the decree holder, particularly when the Hon'ble Supreme Court has directed that execution proceedings should be disposed of within six months. The suit is of the year 2008 and the execution petition was filed on 25.09.2024, and more than one year has already elapsed. Further, in execution proceedings, the Court cannot go behind the decree. The counter now sought to be filed is devoid of merits and is unsustainable in law. Therefore, prays for dismissal of this petition with exemplary costs.

4. POINT FOR CONSIDERATION: Whether the petitioner / 6th judgment debtor has made out any substantive reason and sufficient cause to set aside the ex parte order dated 18.06.2025 passed against it in E.P No. 126 of 2024?

5. No evidence was let in on either side. Heard the rival submissions advanced by the learned counsels for the petitioner/6th judgment debtor and the respondents/decreed holders. Also, perused the materials available on record.

6. FINDING: The petitioner is the 6th Judgment Debtor in the main execution proceedings. The respondents 1 and 2 herein are the Decree Holders. For the sake of convenience, the parties are referred to as per their original rankings in the execution petition.

6.1 The 6th Judgment Debtor entered appearance in the execution petition on 23.04.2025, and the matter was adjourned to 18.06.2025, granting a final opportunity to file its counter. However, on 18.06.2025, as the 6th Judgment Debtor failed to file the counter, it was set ex parte. The present application is filed by the 6th Judgment Debtor contending that adequate opportunity was not provided to file the counter.

6.2 On the contrary, the learned counsel for the respondents submits that the execution petition was filed in the year 2024, and the 6th Judgment Debtor had nearly

two months' time, including the summer vacation period, to file its counter. Instead of making proper use of the opportunity, the 6th Judgment Debtor continued to seek adjournments and even filed an application seeking extension of time under Section 148 CPC, which was rightly dismissed by this Court on 18.06.2025. Without challenging the said order in revision, the present petition has been filed, which is neither maintainable nor permissible in law. Hence, the respondents pray that this petition be dismissed.

6.3 It is an admitted fact that the 6th Judgment Debtor was set ex parte on 18.06.2025 due to its failure to file the counter affidavit in the execution proceedings. However, within thirty days thereof, i.e., on 16.07.2025, the present petition has been filed. The contention of the petitioner that no reasonable opportunity was afforded by this Court to file the counter affidavit is untenable, inasmuch as a total period of 56 days was granted for filing the same.

6.4 Nevertheless, considering that the present petition has been filed within the prescribed time and in order to afford a fair opportunity to the petitioner, this Court is inclined to allow the petition on terms. Accordingly, this petition is allowed on condition that the petitioner shall pay costs of Rs.10,000/- to the respondents/decreed holders, on or before 11.11.2025, without fail. In the event of default in payment of

costs within the stipulated time, this petition shall stand dismissed automatically, without further reference to this Court. Thus, the point for determination is answered accordingly.

7. RESULT: In the result, and for the reasons stated above, this petition is allowed, subject to the condition that the petitioner shall pay costs of Rs.10,000/- to the respondents/decreed holders on or before 11.11.2025, without fail. In the event of default in payment of costs within the stipulated time, this petition shall stand automatically dismissed on the next date of hearing. Call on 12.11.2025 for filing the compliance report.

Typed by me on my laptop, corrected and pronounced by me in open Court on this the 29th day of October, 2025.

Principal Subordinate Judge,
Kancheepuram.

LIST OF WITNESS EXAMINED AND DOCUMENT EXHIBITED ON THE EITHER SIDES: Nil.

Principal Subordinate Judge,
Kancheepuram.
