

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE,
THANJAVUR.**

**Present :Thiru.P.Nagarajan, M.A., M.L.,
II Additional District and Sessions Judge, Thanjavur.**

**Saturday the 07th day of February 2026
(Thiruvalluvar Aandu 2057- Thai Matham 24th day)**

I.A. No.2/205 in O.S. No.298/2022

S.Stella

.....Petitioner/ 1st Defendant

/vs/

1) V.Baby

..... Respondent / Plaintiff

2) S.Arif

.....Respondent/2nd Defendant

This petition having come up for final hearing before me on 29.01.2026 in the presence of Thiru.M.S.Anand, Advocate for the Petitioner/1st defendant and Thiru.K.Kumar, Advocate for Respondent/ Plaintiff, and respondent 2 remained exparte and upon hearing the arguments of petitioner side, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court passed the following...

ORDER

1) The petitioner/1st respondent filed this petition under section 1 and 151 of CPC to stay the proceedings of the O.S. No.298/2022 on the file of this court at this stage, till the outcome of orders from the transfer O.P. No.112/2023 and Tr.O.P. No.170/2025 on the file of the Principal District Court, Thanjavur.

2) Gist of the Affidavit is as follows:

The petitioner is 1st defendant in the original suit. The 1st respondent/plaintiff has also claimed entire mortgaged interest amount before the Subordinate court, Thanjavur and the same has been numbered as O.S.No.139/2020 and the same is pending and also filed a suit for declaration to declare null and void of the alleged power deed executed in favour of the 2nd respondent and the same has been numbered as O.S.246/2023 on the file of Principal District Munsif court, Thanjavur is pending and also Tr.O.P No.112/2023 pending. The subject matter of the three suits are same. The parties contested in the three suits are same, and also filed transfer application before the Principal District court, Thanjavur to club all the cases for joint trial in order to find out the real truth of alleged power deed and mortgage the property and the said transfer applications has been pending for enquiry.

2.1) Further submitted that the matter in issue is directly and substantially in issue between the same parties under the same title before the three different courts will attracts res-judicata. Further multiplicity of proceedings of the same matter before the three different court may reflect the diametrically opposite order. In order to avoid diametrically opposite orders the suit may not proceed at this stage.. Hence prayed allowed this petition.

3) Gist of the counter filed by the plaintiff/1st respondent:

The allegation about the averment of the petitioner is not maintainable in law and on facts and the petitioner is the put to strict proof of the same. The plaintiff filed

a suit in OS.No.139/2020 was decreed on 05.04.2020 and another suit in Os.No.298/2022 pending for cross of PW1. In this stage the petitioner filed this petition to avoid the cross of PW1 and the petitioner given false statement and mislead court and wrong information given to the court. Moreover the petition mentioned application of Tr.O.P. No.112/2023 was dismissed on 15.04.2024 by the principal District Court, Thanjavur. The matter in issue is directly and substantially in issue between the same parties under the same title before the three different courts will attracts res-judicata. Further multiplicity of proceedings all are denied as false. The petitioner filed this petition for the purpose of drag on the proceedings only. Unless this is petition is dismissed this respondent will be put irreparable loss and hardship. Hence prayed to dismiss the petition with costs.

4) Point for consideration:

Whether the petitioners/plaintiffs is entitled to the relief sought for?

Point:

5) The counsel for the petitioner/1st defendant submitted that the present petitioner is the 1st defendant in original suit. The original suit filed for recovery of mortgage amount already the Original suit. 139/2020 filed and pending before Principal Sub Court to interest upon this present mortgage and another OS.No.246/2023 filed for declaring null and void alleging power deed as pending along with present suit of the 3 suit tried with, for which present application numbered as 112/2023 filed and pending another Tr.O.P. No.170/2025 pending

without joint trial the finality will attracts res-judicata prayed stay this original suit proceedings till acted by the proceedings of this court.

6) The counsel for respondent/plaintiff submitted that the present petition is neither not maintainable in law and on facts. OS.No.139/2020 with filed of Principal Sub Court, Thanjavur was decreed 05.04.2025. The present Tr.O.P.No.112/2023 dismissed for default on 15.04.2024. The petition filed this application without cross examining the witness who was examined of this court. the petition is filed dragging the proceedings the petition is not maintainable prayed for dismissal.

7) From the perusal of the averments in the petition it is found that the petitioner is the first defendant who has to repay the mortgage amount to the plaintiff along with interest. The plaintiff filed presented original suit for recovery of mortgage amount with interest as total claim trial of the claim is the finality in the problem. Already the Principal Sub Court disposed the matter of recovery of interest from the same defendant on the ground of exparte of the proceeding are exparte and default. They will not disturb the main original suit of the case. The application filed to stay the present petition u/s.10 and 151 of CPC. is pleading only the claims will different. But the original suit parties, parties in the interest claim the interest party of this suit. Hence the claim made by the present petition is first final as to conducted the original suit will disturb the cross of PW1 was not made by plaintiff on the ground of fist application for stay in other proceedings are already disposed on the claim made by the present petition is not made. Hence the petition is not maintainable

and the petition is dismissed with costs of first respondent/plaintiff.

In final the petition is dismissed as not maintainable and the petition is dismissed with costs of first respondent/plaintiff.

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in the open court, this the 07th day of February 2026.

**II Additional District and Sessions Judge,
Thanjavur.**

Petitioner and Respondents side
Exhibits and Witnesses : Nil

**II Additional District and Sessions Judge,
Thanjavur.**

Order in

IA.No.2/2025 in O.S.No.298/2022

Dated: 07.02.2026