

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHEYYAR

TIRUVANNAMALAI DISTRICT

Present :- **Tmt. K. Naleeni, M.L.,**
Principal District Munsif, Cheyyar,
Thiruvannamalai.

Wednesday, the 05th day of November, 2025

E.A.No.01/2025 in E.P. 8/2025 in O.S.No.66/2020

Geetha

... Petitioner/1st Judgment Debtor

V.

Nithiyanandham

..... Respondent/Decree Holder

This petition is coming before me on 25.09.2025 for final hearing in the presence of Mr. U. Harikrishnan, Learned Advocate for the Petitioner/ 1st Judgment Debtor and Mr. G.Gunasekaran, Learned Advocate for the Respondent / Decreeholder and upon hearing both sides and after careful perusal of the entire case records and having stood over for consideration till this day, this Court delivered the following:

ORDER

This Petition has been filed by the Petitioner under Order XXI Rule 29 of Code of Civil Procedure, 1908 praying to grant stay of the proceedings in the Execution proceedings until the Appeal in A.S No.24 /2024 is decided.

2. BRIEF AVERMENTS OF THE PETITION AS FOLLOWS:

The Petitioner is the 1st Respondent /Judgment Debtor in the E.P 08/2024 and the 1st Defendant in O.S. No. 66 of 2020. The petitioner states that an Appeal has been filed in the Hon'ble Additional Sub Court, Cheyyar in A.S No. 24/2024 by the petitioner and states that as the Appeal is pending, the present petition cannot be adjudicated and prays to stay the proceeding until the Appeal has been disposed.

3. BRIEF AVERMENTS OF THE COUNTER AS FOLLOWS:

The respondent contends that stated that the present petition is not legally maintainable and that the relief sought by the petitioner is not entitled to her. The respondent admits the filing of Appeal before the Hon'ble Additional Sub Court, Cheyyar. The Respondent contends that the petitioner has filed this petition only to delay the appeal and harass this respondent. No irreparable loss will occur to the petitioner and further states that the trial court decree was passed on 11.01.2024. The petitioner deliberately filed the appeal after nearly six months and only after the respondent filed execution proceedings. The petitioner, being well educated, has filed this frivolous application solely to obstruct execution. He further contends that it is well settled by various judgments of the Hon'ble High Court that merely because an appeal is pending, execution of the decree cannot be stayed automatically. Knowing the law, the petitioner/1st defendant has still filed this petition on false grounds. Hence, the petition is liable to be dismissed.

4. POINT FOR CONSIDERATION:

The sole point to be considered by this Court is whether the present petition can be allowed or not?

5. ORAL AND DOCUMENTARY EVIDENCE:

No oral or documentary evidence were adduced on both the sides.

6. DETERMINATION:

Heard both sides and carefully perused the records.

- i) This EA 1/2025 has been filed in E.P /2024. This EA has been filed by the 1st Judgement Debtor, Geetha, praying to stay the proceedings in E.P until the A.S 24/2024 has been decided by the Hon'ble Additional Sub Court, Cheyyar for the reason that only when the Appeal has been disposed, the present execution petition can be properly adjudicated.
- ii) The Decreeholder/Respondent admits the filing of Appeal before the Hon'ble Additional Sub Court, Cheyyar. The Decree Holder contends that there would be no prejudice caused to the Petitioner to proceed with the E.P. He further contends that the Petitioner is wantonly delaying the Appeal proceedings and has filed the aforesaid Appeal belatedly only after passing of the decree and after filing of the execution petition. He further contends that it is well settled position of law that mere pendency of an appeal does not automatically stay the execution proceedings unless a stay order has been issued by the Appellate Court.
- iii) According to According to Order 21 Rule 29 of CPC:

“29.Stay of execution pending suit between decree-holder and judgment-debtor:-

Where a suit is pending in any Court against the holder of a decree of such Court or of a decree which is being executed by such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise, as it thinks fit, stay execution of the decree until the pending suit has been decided:

Provided that if the decree is one for payment of money, the Court shall, if it grants stay without requiring security, record its reasons for so doing.”

- iv) The Hon'ble Supreme Court has also held in **Shaukat Hussai alias Ali Akram and others vs. Smt. Bhuneshwari Devi** (dead) by LRs and others) 1972 (2) SCC 731 that "Order XXI Rule 29 CPC operates when there are *two* proceedings in the same Court. One is the **Execution petition** filed by the Decree holder against the Judgment Debtor and the other proceeding is a **suit** filed by the Judgment Debtor against the Decree Holder. Only when these two conditions satisfy, the Court may apply its discretion in granting stay of Execution proceeding."
- v) Therefore, under Order XXI Rule 29 CPC, to stay the execution of the decree, the following conditions must be satisfied:
- a) there must be simultaneous proceedings;
 - b) an execution by the decree holder must be pending against the judgment debtor;
 - c) the judgment debtor must have filed a suit against the decree holder; and
 - d) the suit must be pending.
- vi) In so far as the present case is concerned, the Appeal has been filed before the Hon'ble Additional Sub Court, Cheyyar which does not satisfy the requirements mandated under Order XXI Rule 29 of CPC and as elucidated by the Hon'ble Courts in the judgments discussed herein. Further, no evidence has been put forth by the petitioner to show that a suit has been filed or pending by the Judgment Debtor in the present Court against the Decree Holder. Further, the Judgment Debtor has also failed to satisfy sufficient cause for staying the execution proceedings.
- vii) In **Balammal vs Muthiar Begum on 22 November, 2012**, the Hon'ble **Madras High Court has held that**, "it is also stated that the Court is not obliged to stay even when the requirements of Order 21, Rule 29

are fulfilled. It is purely discretionary. The exercise of power of stay under Order 21, Rule 29 depends upon facts and circumstances of each case. Even in cases where the prerequisites of Order 21, Order 29, C.P.C. are satisfied, Court may refuse to grant stay..."

- viii) Hence, in the above circumstances, it cannot be said that simultaneous proceedings are pending before this Court. As the requirements for invoking Order XXI Rule 29 CPC are not satisfied by the Judgment Debtor, this Court is not inclined to allow the petition.

7. RESULT :

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

Dictated to the typist, and corrected by me and pronounced by me in open court, on this the 05th day of November, 2025.

Principal District Munsif,
Cheyyar.

8. List of Witnesses:

On the side of the Petitioner : NIL
On the side of the Respondent : NIL

9. List of Documents :

On the side of the Petitioner : NIL
On the side of the Respondent : NIL

Principal District Munsif,
Cheyyar.