

**IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.**

**PRESENT:** Selvi.A.Keerthana, B.A., L.L.B.,  
District Munsif, Ponneri.

Monday, the 13<sup>th</sup> day of October 2025

**EXECUTION APPLICATION No.3 OF 2024**

in

**EXECUTION PETITION No.1 OF 2024**

S.Velmurugan

.....Petitioner/Judgment Debtor

- Vs -

D.Socrates

..... Respondent/Decree holder

This petition came on 26.09.2025 for final hearing before me in the presence of Mr.R.Munuswamy, Learned counsel appearing for the petitioner and Mr.R.Krishnaswamy, Learned counsel appearing for the Respondent. Upon hearing both sides, after perusing the material case records and having stood over for consideration till this day, this Court delivers the following:

**ORDER**

1. This petition has been filed by the petitioner under Order 21 Rule 106 Read with Section 151 of CPC to set aside the exparte order dated 19.01.2024 made in the above execution petition in EP.No.1/2024.

**2. Brief averments of the Affidavit filed by the Petitioner are as follows:**

The petitioner herein is the respondent/judgment debtor in the main Execution Petition No. 1 of 2024. The said execution petition was filed to enforce the fair and decreetal order dated 22.09.2023 passed in RLTOP No. 1 of 2021,

directing the petitioner to vacate the petition schedule property. On 19.01.2024, this Hon'ble Court ordered delivery of the petition schedule property by 19.02.2024. Even prior to the filing of the execution petition, the petitioner had preferred an appeal, RLTA No. 19 of 2023, against the said order before the Appellate Authority, namely the Principal District and Sessions Court, Thiruvallur. The said appeal was subsequently made over to the Hon'ble IV Additional District Court, Thiruvallur at Ponneri. Along with the appeal, a stay petition was also filed, which has been duly numbered. However, the appeal is yet to be taken up for hearing. It is respectfully submitted that an appeal is a continuation of the original proceedings. Particularly under the Rent Control Act, the filing and registering of an appeal is deemed to operate as a stay of the original order. A notice of appeal has already been served upon the respondent/decreed holder. In spite of having knowledge about the pending appeal, the decree holder, with ulterior motives and in suppression of material facts, proceeded to file the present execution petition and obtained a delivery order. On 15.02.2024, the decree holder, along with the court Amin, attempted to evict the judgment debtor from the petition schedule property without following due process. However, upon production of records showing the pendency of the appeal, the delivery proceedings were halted. In light of the above, the petitioner has filed the present petition seeking the indulgence of this Hon'ble Court to set aside the ex parte order passed in E.P. No. 1 of 2024 dated 19.01.2024, and to stay all further proceedings in the said execution petition until the disposal of the pending appeal. Hence, this petition.

**3. Bring averments of the counter filed by the respondent are as follows:**

The respondent was not aware of the appeal referred to by the petitioner at the time of filing the execution petition. The execution petition was filed only after the expiry of the time fixed by this Hon'ble Court, and thereafter, an order for

delivery was also passed. The contention that under the Rent Control Act the mere filing and registration of an appeal amounts to an automatic stay of the operation of the order is false and is hereby specifically denied. It is only under the previous Rent Act, namely the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960, that when an ex parte order was passed by the Rent Controller, and the tenant filed an application under Rule 12(3) framed under the said Act, there was a presumption of automatic stay of the operation of the ex parte order. Under the present Act governing the rights and responsibilities of landlords and tenants, there is no such provision, nor is there any rule framed under the said Act that provides for automatic stay. It is, therefore, denied that the respondent/decreed holder, having knowledge of the appeal, filed the execution petition with any ulterior motive or with suppression of material facts relating to the pendency of the appeal. These allegations are false and are hereby denied. The respondent/decreed holder became aware of the appeal proceedings only when the petitioner resisted execution of the warrant of delivery by referring to the same. The petitioner/judgment debtor, having preferred an appeal, ought to have obtained a stay of the operation of the fair and decreetal order passed by this Hon'ble Court. In the absence of any such stay, the petitioner has no right to seek setting aside of the order of delivery, nor can the petitioner seek to stay all further proceedings in the execution petition merely on the ground that an appeal is pending. If this petition is allowed, it would cause serious prejudice to the respondent. Hence prays for dismissal.

#### **4. Evidence :**

Neither the petitioner nor the respondent has placed any oral or documentary evidence before this court.

## **5. Point for determination :**

Whether this petition can be allowed or not.

## **6. Discussion and findings :**

6.1. Heard both sides. Records have been carefully perused. The present petition has been filed by the petitioner seeking to set aside the exparte order dated 19.01.2024 passed in the above Execution Petition. The respondent/decrece holder has filed a detailed objection opposing the present petition. Upon consideration of the rival submissions and a thorough examination of the material records and pleadings placed on record, it is seen that the petitioner/judgment debtor was set exparte on 19.01.2024. The present petition to set aside the said exparte order was filed on 16.02.2024. Thus, it is evident that the petitioner has approached this Court within a reasonable time and without any inordinate delay. This Court is of the considered view that the petitioner has made out a bonafide case for setting aside the exparte order, and in the interest of justice and to afford a fair and reasonable opportunity to the petitioner to put forth his case, the petition deserves to be allowed. However, in view of the delay caused in the proceedings and in order to compensate the inconvenience and expenses incurred by the respondent/decrece holder due to the petitioner's absence during earlier proceedings, this petition is allowed subject to the following twin conditions.

## **7. Result :**

In the result, this petition is allowed on twin conditions:

- (i) the petitioner/Judgment debtor shall pay a sum of Rs.500/- to Respondent/Decree holder on or before 22.10.2025.
- (ii) The petitioner shall file their counter on next hearing.

On failure to adhere the above conditions, this petition shall stands automatically dismissed without any further orders. For reporting compliance call on 23.10.2025.

Dictated by me to the stenographer, transcribed, corrected and pronounced by me in the open court on this the 13<sup>th</sup> day of October 2025.

**DISTRICT MUNSIF  
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF  
PONNERI**

Fair/ Draft Order  
E.A.No.3/2024  
E.P.No.1/2024  
Date:13.10.2025  
DMC,PNI.