



CRP(MD). No.140 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.140 of 2026

and

CMP(MD) No.595 of 2026

K.Magamayee

... Petitioner

Vs

S.Muniyandi

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.12.2025 passed in E.P.No.23 of 2023 in O.S.No.75 of 2017 on the file of the District Munsif Court, Madurai Taluk.

For Petitioner : Mr.N.Rahamadullah

ORDER

This Civil Revision Petition has been filed challenging the order dated 18.12.2025 passed in E.P.No.23 of 2023 in O.S.No.75 of 2017 on the file of the District Munsif Court, Madurai Taluk.



CRP(MD), No.140 of 2026

WEB COPY 2.The respondent/plaintiff filed a suit in O.S.No.75 of 2017 on the file of the District Munsif Court, Madurai Taluk, against the petitioner/defendant for the relief of directing the petitioner to receive a sum of Rs.30,000/- from the Court deposit and to hand over the vacant possession of the suit property. The suit was decreed on 12.06.2023. Aggrieved by the said judgment and decree, the petitioner preferred an appeal in A.S.No.36 of 2023, which was dismissed on 12.07.2024. A Second Appeal in S.A.(MD) No.129 of 2025 was then filed before this Court and the same was also dismissed on 07.07.2025. Challenging the same, the petitioner preferred an Special Leave Petition before the Hon'ble Supreme Court and the same is pending consideration. Meanwhile, the respondent initiated execution proceedings in E.P.No.23 of 2023 for delivery of possession and the same was allowed on 18.12.2025. Challenging the same, the petitioner has approached this Court by way of filing the present Civil Revision Petition.

3.The learned counsel for the petitioner would submit that the petitioner is in lawful possession of the suit property both as a tenant as



CRP(MD). No.140 of 2026

well as mortgagee. Even though the Executing Court cannot go behind the judgment and decree, it is settled that the Court below must examine whether the decree is executable against a person, who is claiming right over the property, when the dispute is pending before the Hon'ble Supreme Court. He would further submit that execution of a decree for delivery of possession without deciding tenancy rights is un-sustainable in law. Hence, he prays for appropriate orders.

4.Heard the learned counsel for the petitioner. Since no adverse order is going to be passed against the respondent, notice to the respondent is dispensed with.

5.Admittedly, O.S.No.75 of 2017 filed by the respondent was decreed on 12.06.2023 and challenging the same, the petitioner preferred A.S.No.36 of 2023 and the same was also dismissed on 12.07.2024. S.A. (MD) No.129 of 2025, which was filed against the judgment, dated 12.07.2024, was dismissed on 07.07.2025 and challenging the same, the petitioner preferred an SLP and the same is pending consideration before the Hon'ble Supreme Court.

6.Even though it is the main contention of the learned counsel for



CRP(MD), No.140 of 2026

the petitioner that since Special Leave Petition has been filed and the same is pending consideration, the trial Court shall not proceed further, this Court is of the considered view that mere filing of a Special Leave Petition before the Hon'ble Supreme Court is not, by itself, a valid ground to set aside or stall the EP proceedings.

7.It is well settled that unless the party obtains a specific interim order or stay from the Hon'ble Supreme Court, the decree remains executable and the Executing Court is bound to proceed with the execution of the decree.

8.In the case on hand, the petitioner has only stated that a Special Leave Petition has been filed before the Hon'ble Supreme Court. However, no material has been placed before this Court to show that any interim stay or order has been granted by the Hon'ble Supreme Court restraining the execution of the decree. In the absence of such an interim order, the Executing Court was perfectly justified in proceeding with the Execution Petition.

9.Further, this Court finds that the trial Court, after considering the



CRP(MD), No.140 of 2026

pleadings and materials available on record, relied upon the ratio laid down by the Hon'ble Supreme Court in *Periyammal (Dead) by LRs vs. V. Rajamani and Another* and arrived at its conclusion. The application of the said judgment to the present case cannot be said to be erroneous or illegal. Therefore, this Court finds no illegality or infirmity in the order impugned herein.

10. In fine, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
mm

21.01.2026

To

The District Munsif, Madurai Taluk.

N.SENTHILKUMAR, J.



WEB COPY



CRP(MD). No.140 of 2026

mm

CRP(MD). No.140 of 2026

21.01.2026