THIRD DISTRICT LEVEL WORK SHOP

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KURNOOL DISTRICT

Paper Presentation on the topic of Time line for disposal of Execution Petitions - Practical Challenges.

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1. INTRODUCTION

The administration of justice does not conclude with the pronouncement of a decree. A decree-holder derives the real benefit of litigation only when the decree is effectively and expeditiously executed. A judgment, however well-reasoned, becomes meaningless if it remains incapable of enforcement. Therefore, execution proceedings constitute an integral and indispensable component of the civil justice delivery system.

The well-established maxim **"Execution is the fruit of the decree"** aptly underscores the significance of execution proceedings. Delay in execution not only frustrates the rights of the decree-holder but also undermines public confidence in the judicial process.

The Hon'ble Supreme Court has repeatedly observed that one of the major causes for delay in the civil justice system is the prolonged pendency of execution proceedings. In many cases, execution proceedings continue for years or even decades after the decree has attained finality. Such delay defeats the very object of civil adjudication and renders the judicial process ineffective.

Recognizing this concern, the Hon'ble Supreme Court in **Rahul S.Shah Vs. Jinendra Kumar Gandhi (2021) 6 SCC 418** described execution proceedings as the weakest link in the administration of civil justice and issued comprehensive directions to all Courts for ensuring their effective and timely disposal.

Although the Code of Civil Procedure, 1908 does not prescribe a rigid statutory timeline for disposal of execution petitions, the legislative scheme, judicial pronouncements, and administrative circulars clearly indicate that execution proceedings should be conducted with utmost expedition. Courts are expected to adopt proactive case management techniques, minimise unnecessary adjournments, and ensure prompt enforcement of decrees.

Execution proceedings are not intended to provide a fresh opportunity to the judgment-debtor to reopen issues already adjudicated. The jurisdiction of the executing Court is confined to enforcing the decree as it stands and not to modifying or questioning its correctness except to the limited extent permissible under law. The effectiveness of the justice delivery system is ultimately judged not merely by the quality of judgments delivered but by the certainty and promptness with which judicial decisions are enforced. Therefore, efficient execution proceedings are essential for preserving the rule of law and maintaining public faith in the judiciary.

2. OBJECT OF EXECUTION PROCEEDINGS :

Execution proceedings are intended to enforce the rights declared by the Court through its decree. The object of execution is not to determine fresh rights between the parties but to secure compliance with the decree already passed after adjudication.

The fundamental objectives of execution proceedings include:

→ Enforcement of judicial decisions.
→ Protection of the rights of decree-holders.
→ Maintenance of public confidence in the justice delivery system.
→ Prevention of multiplicity of litigation.
→ Ensuring finality of judicial proceedings.
→ Upholding the rule of law by compelling obedience to judicial orders.

Execution proceedings are therefore a continuation of the original proceedings and constitute the final stage of civil litigation. The Supreme Court has consistently held that Courts should adopt an interpretation that advances execution rather than one which defeats it.

3. WHETHER THERE IS ANY TIME LIMIT FOR DISPOSAL OF EXECUTION PETITIONS ?

A careful reading of the Code of Civil Procedure reveals that **no specific statutory provision prescribes a mandatory outer time limit** for disposal of

every execution petition. Nevertheless, several provisions indicate that execution proceedings must be conducted with expedition.

Examples include:

→ Order XXI Rule 17 – Immediate scrutiny of the execution application.

→ Order XXI Rule 22 – Prompt issuance of notice where necessary.

→ Order XXI Rule 24 – Issue of execution process without delay after admission.

→ Order XVII CPC – Adjournments should be granted sparingly.

→ Section 47 CPC – Questions relating to execution should be decided within the execution proceedings themselves, avoiding separate litigation.

Thus, although the Code does not prescribe a fixed period, it embodies a legislative policy favouring speedy execution.

4. JUDICIAL MANDATE FOR EXPEDITIOUS DISPOSAL OF EXECUTION PETITIONS :

a) PRINCIPLES LAID DOWN IN *RAHUL S.SHAH CASE:*

In the case of ***Rahul S.Shah v. Jinendra Kumar Gandhi 2021 SCC On Line SC 341*****,** Hon'ble Supreme Court noticed that "Remedies provided for preventing injustice are actually being misused to cause injustice, by preventing a timely implementation of orders and execution of decrees".

Background

The Supreme Court noticed that despite obtaining decrees after prolonged litigation, decree-holders were unable to enjoy the fruits of their decrees because execution proceedings remained pending for years. The Court observed that the execution mechanism under the CPC was being frustrated by:

→ repeated adjournments,

→ frivolous objections,

→ concealment of assets,

→ abuse of procedural provisions,

→ multiplicity of proceedings.

The Hon'ble Apex Court therefore issued comprehensive directions applicable throughout the country.

➔ **Key Observations :**

The Hon'ble Apex Court observed:

Execution proceedings should not become another round of litigation.

It further held that:

A decree-holder cannot be compelled to litigate endlessly merely to realize the fruits of the decree.

➔ **<u>Important Directions Issued by the Hon'ble Supreme Court -</u>**

(i) Early Identification of Assets

Courts should ensure that details of movable and immovable properties are disclosed at the earliest stage.

(ii) Disclosure of Assets

Where necessary, Courts should invoke Order XXI Rule 41 CPC to compel disclosure of assets by the judgment-debtor.

(iii) Strict Case Management

Executing Courts should avoid unnecessary adjournments.

Proceedings should be monitored continuously.

(iv) Effective Service of Notice

Courts should adopt all permissible modes of service.

Delay in service should not become a ground for prolonging execution.

(v) Discouraging Frivolous Objections

Objections lacking bona fides should be rejected promptly.

Repeated applications intended merely to delay execution should not be entertained.

(vi) Simultaneous Proceedings

Where legally permissible, attachment, disclosure of assets and other execution processes may proceed simultaneously.

(vii) Time-bound Disposal

The Supreme Court emphasized that execution proceedings should ordinarily be concluded **within six months from the date of filing**, except where the nature of the case or exceptional circumstances justify a longer period. If disposal is delayed beyond six months, the Court should record reasons for such delay.

(viii) Judicial Monitoring

The Presiding Officer should personally monitor old execution petitions.

(ix) Digital Records

Courts should make effective use of digitised records and technology.

(x) Coordination Among Courts

Transfer of decrees under Section 39 CPC should not become a cause for prolonged delay.

b) OVER VIEW OF PERIYAMMAL CASE:

The case of Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Anr. Etc. CIVIL APPEAL NO. 3640-3642 OF 2025 involves **specific performance of a sale agreement** related to a property and its subsequent execution decree. The case traces the journey of a suit originally filed by Ayyavoo Udayar against the vendors along with respondent no. 01 & 02 who are daughter and son of vendor's sister for specific performance of a sale agreement. The suit was decreed in favour of Ayyavoo Udayar, which was affirmed by Hon'ble High Court and Hon'ble Supreme Court directing the vendors to execute the sale deed Continuous

Possession- They asserted they were already and deliver possession of the property.

Thereafter, the appellants filed execution petitions to enforce the judgment. The execution process was halted when respondents filed an application under Section 47 of Code of Civil Procedure and obstructed the execution by claiming the following:

Lack of Notice- The respondents argued they were never served with a notice regarding execution proceedings.

Deletion of Names- They contended that decree was not binding upon them because their names had been deleted from sale deed.

Continuous Possession – They asserted they were already in possession of the property and had no prior knowledge of the execution petitions filed by appellants to enforce the judgment.

The executing court upheld the respondents' objections, concluding that appellants had :

→ failed to establish their possession of the property.

→ not made a proper claim against the respondents in their original execution petition.

→ lack of notice to the respondents and the resulting need for them to be given a fair chance to defend their rights.

→ The Supreme Court found that the lower courts had erred in their assessments and observed that:

→ **Procedural Injustice**- Execution of a Decree is delayed by procedural hurdles and “dishonest tactics”

→ **Execution Orders**- The executing Court to ensure that vacant and peaceful possession of the suit property is handed over to the appellants within 2 months with police assistance if necessary.

→ **Collusion & Lack of Notice –** Respondents was not bonafide but indicated collusion with vendors.

The Court also delved into the statutory scheme governing execution proceedings, particularly the interplay between Section **47 CPC and Order XXI Rules 97 to 101 Code of Civil procedure** and observed that :

→ **Executing Court Competence-** The executing Court has the authority to decide all questions relating to execution, discharge, or satisfaction of the decree including questions concerning possession, without requiring new litigation.

→ **Procedural Rules-** The Court criticized the technical approach adopted by the High Court, particularly its refusal to allow amendments in the execution petition, emphasizing the procedural laws should be interpreted in a manner that facilitates justice rather than obstructs it.

→ **Delaying Tactics**- Respondents delayed by not asserting their rights in a timely manner and only attempting to obstruct execution at final stage.

→ **Finality of Decree-** The Court reiterated that execution proceedings should not be used to re-litigate issues already settled by a final decree.

→ **Disapproval of Delay**- Strong disapproval was expressed regarding the inordinate delay in execution proceedings.

→ In view of aforesaid observations, the Hon'ble **Supreme Court has issued directions to all courts that execution proceedings must be completed within 6 months from the date of institution.**

5. PRACTICAL CHALLENGES IN DISPOSAL OF EXECUTION PETITIONS

The execution of a civil decree is often described as the most challenging stage of litigation, where the "real battle" begins after a judgment is passed. Despite legal provisions aimed at speedy disposal, numerous hurdles delay or prevent decree-holders from reaping the fruits of their victory. Although the Code

of Civil Procedure provides a comprehensive framework for execution, the successful enforcement of decrees depends upon numerous practical and administrative factors. In day-to-day functioning of trial courts, executing courts encounter several difficulties which often result in prolonged pendency of execution petitions. Many of these challenges are procedural, while others arise from deliberate attempts by judgment-debtors to frustrate the execution process.

The following are some of the common challenges faced by executing courts :

1. Delay in Service of Notice

One of the principal reasons for delay is ineffective service of notice under Order XXI Rule 22 of CPC.

Frequently encountered issues include:

→ ncorrect or outdated addresses of the judgment-debtor.
→ Frequent change of residence.
→ Avoidance of service.
→ Delays in service through process servers.
→ Repeated return of summons unserved.

Suggested Practice

→ Verify the address from the plaint, written statement, vakalatnama, and decree.
→ Promptly adopt substituted service where warranted.
→ Utilize all legally permissible modes of service.
→ Monitor the process-serving agency and seek compliance reports without delay.

2. Concealment of Assets

Judgment-debtors often conceal or transfer assets after the decree to avoid execution.

Common methods include:

→ Benami transactions.
→ Transfer to family members.
→ Withdrawal of bank balances.
→ Creation of sham encumbrances.

→ Alienation of immovable properties.

Suggested Practice

→ Invoke Order XXI Rule 41 CPC at an early stage.

→ Direct disclosure of movable and immovable assets on affidavit.

→ Seek information from registration authorities, banks, or other competent authorities where permissible under law.

→ Carefully scrutinize suspicious transfers made after institution of the suit or after attachment.

3. Repeated Adjournments

Execution proceedings are frequently delayed due to repeated requests for adjournments by either party.

Common grounds include:

→ Settlement negotiations.

→ Illness.

→ Filing of interlocutory applications.

→ Change of counsel.

→ Non-availability of documents.

Suggested Practice

The Supreme Court has repeatedly emphasized that unnecessary adjournments should be avoided. Adjournments should be granted only for sufficient cause and reasons should be recorded in the order.

4. Frivolous Objections

Judgment-debtors sometimes file multiple applications with the sole object of delaying execution.

Examples include:

→ Repeated objections under Section 47 CPC.

→ Applications questioning the decree itself.

→ Successive stay petitions.

→ Strangers to the suit may claim independent rights, title or interest in the property under order 21 Rule 97 and 99, forcing the court to adjudicate these claims as if they were a new suit.

→ Applications based on already rejected grounds.

Suggested Practice

The executing court should identify frivolous objections at the threshold and dispose of them promptly by assigning concise reasons.

5. Third-Party Claims

Execution of decrees relating to immovable property frequently gives rise to objections by third parties claiming independent rights.

Common situations include:

→ Alleged tenants.

→ Purchasers after the decree.

→ Family members.

→ Co-owners.

Suggested Practice

Such objections should be adjudicated under Order XXI Rules 97 to 103 CPC. Separate suits are ordinarily barred where the Code provides an effective remedy.

6. Delay in Attachment Proceedings

Practical difficulties include:

→ Delay in obtaining valuation.

→ Lack of accurate property descriptions.

→ Disputes regarding ownership.

→ Non-cooperation of revenue authorities.

Suggested Practice

The executing court should ensure that attachment warrants contain complete particulars and follow up with the executing staff to ensure timely execution.

7. Judicial Sale

Auction proceedings often consume considerable time because of:

→ inadequate publicity,
→ objections to valuation,
→ absence of bidders,
→ applications to set aside the sale.

Suggested Practice

The executing court must strictly comply with Order XXI Rule 66 CPC and ensure transparency in the auction process.

8. Execution of Possession Decrees

Delivery of possession often becomes difficult due to:

→ resistance by occupants,
→ law and order issues,
→ encroachments,
→ third-party obstruction.

Suggested Practice

The court should coordinate with local authorities where assistance is legally required and dispose of obstruction petitions expeditiously.

9. Transfer of Decrees

Where execution is transferred under Section 39 CPC, delays occur due to:

→ administrative correspondence,
→ transmission of records,
→ communication gaps between courts.

Suggested Practice

The transferor and transferee courts should maintain effective communication and ensure prompt certification under Section 41 CPC.

These challenges regarding execution of decrees and their corresponding solutions were extensively addressed in the landmark decisions of ***Periyammal (Dead Thr. Lrs.) & Ors. Vs. V. Rajamani & Anr. 2025 CIVIL APPEAL NO. 3640-3642 OF 2025*** and ***Rahul S. Shah v. Jinendra Kumar Gandhi 2021 SCC OnLine SC 341***. A concise principle emerging from this collective jurisprudence is that execution proceedings must not be treated as a fresh suit; rather, decree must be enforced promptly, objections should be limited, and delay must not defeat justice.

6. STATUTORY AND ADMINISTRATIVE FRAMEWORK

A significant administrative measure aimed at ensuring effective and expeditious enforcement of decrees is the ***Circular No.04/2025 issued by the Hon'ble High Court of Andhra Pradesh, vide ROC No.208/SO/2025, dated 28.04.2025 and recently issued another circular No.8/2026.*** The Circulars were issued pursuant to the directions of the Hon'ble Supreme Court in ***Periyammal (Dead) through LRs and Others v. V. Rajamani and Another, Civil Appeal Nos.3640–3642 of 2025, decided on 06.03.2025***, reiterating the earlier directions issued in ***Rahul S. Shah v. Jinendra Kumar Gandhi, (2021) 6 SCC 418***.

→ The committee of Hon'ble Judges for " Ensuring the Implementation of the Decisions of the Apex Court" in the meeting held on 29.04.2026 approved the following guidelines/suggestions for early disposal of execution petitions.

→ GUIDELINES/SUGGESTIONS FRAMED FOR EARLY DISPOSAL OF EXECUTION PETITIONS

I

→ 1. As per Rule 212 of Civil Rules of Practice (CRP) and Circular Orders, if the Execution Petition is admitted, the applicant shall, within two (2) days or within such other period as may be fixed by the Judge, pay Court fee to issue process.

→ 2. To dispose of the Execution Petitions within six months and to avoid delay, the Executing Court shall insist the applicant of the Execution Petition to pay the process and

subsistence allowance along with Execution Petition and thereafter fix a date for appearance of J.Dr not exceeding 30 days.

→ 3. If the process fee is not paid along with Execution Petition, the Execution Petition shall be adjourned for payment of process for three (3) days.

→ 4. Even after lapse of time, if the process fee is not paid, the Execution Petition shall be dismissed for default. In case of arrest, process fee and subsistence allowance must be paid as contemplated in Rule 212 of CRP.

II

→ 1. The Presiding Officer shall decide whether a notice under Order XXI Rule 22 is required.

→ 2. The Court/Presiding Officer has the discretion to dispense with Order XXI Rule 22 (1) & (2) notices, as per the A.P state amendment.

→ 3. Instead of mechanically sending notices/ process repeatedly to the same old address of the J.Dr., when the notice/process returned with endorsement that "address not correct" or "addressee left", the Court shall insist the D.Hr to furnish the correct address as required under Order VI Rule 14-A.

→ 4. The Court can order the summons "to hand over" to the D.Hr. for personal service on J.Dr. under Order V Rule 9-A in the presence of a respectable person or a Gazetted Officer.

→ 5. If it is found that the respondent has been avoiding to receive notices or getting them returned, the Court shall resort to substitute service as contemplated under Order V Rule 20 CPC and can take presumption as to the service of notice.

→ 6. At the time of registering the Execution Petitions, the Court shall insist the D.Hr to pay the process and subsistence allowance along with Execution Petition or direct him to pay such process within three days from the date of registration of Execution Petition [as contemplated under Order 21 Rule 39 (1) of CPC].

→ 7. The Executing Court shall specifically mention in the process a specific date on or before which the notice is to be served on the J.Dr and return to the Court in terms of Order XXI Rule 24(3) CPC.

→ 7.1 The Court shall insist the draft document, to be executed by the Court, filed along with Execution Application and send such copy to the J.Dr along with notice as per Or.21 Rule 34(1) CPC and Rule 220 CRP, so that delay can be avoided.

→ 7.2 Once draft document is sent to Registrar's office for registration, the Court shall fix a date for return of registered document to the Court. If the Registering authority raises any objection, the Executing Court shall insist the D.Hr to comply such objections by giving short time i.e., not more than seven (7) days.

→ 8. The Executing Courts shall pass orders under Order XXI Rule 54 and 66 simultaneously, so that the immovable property, shown in the Execution Petition, would be attached and on the date shown in the notice, for appearance of J.Dr, the terms would be settled and proclamation would be prepared for sale of the attached property.

→ 9. In Execution Petitions, for attachment of salary of J.Dr, after service of notice, if the garnishee fails to deduct and send amount from the salary of J.Dr, instead of adjourning the petition with an observation "await amount/information from the garnishee", shall order garnishee notice as contemplated under Order XXI Rule 46-A and 46-B of CPC.

→ 10. If the Court, in EP proceedings, finds that the objection, resistance or claim, is frivolous or mala fide, may grant compensatory costs in accordance with Section 35A CPC and Order XXI Rule 98 (2) CPC.

→ 11. Under Section 60 CPC, the terms "In the name of judgment-debtor or of any other person in-trust for him or on his behalf" should be read liberally to incorporate any other person.

→ **SUGGESTIONS**

→ 1. The execution petitions shall be disposed of within six (06) months from the date of filing (Periyammal's case). However, by recording reasons, the time may be extended.

→ 2. The Executing Court, on being satisfied that the decree cannot be executed without police assistance, shall direct the concerned police to provide assistance to the Court officials for execution of decree on the application being made by the concerned.

→ 3. The execution proceedings should not be treated as fresh litigation.

→ 4. The Executing Court shall give short dates for service of notices on the basis of distance of the address of the respondent/J.Dr.

→ **GUIDELINES FOR EARLY DISPOSAL OF CLAIM PETITIONS**

→ 1. Order X of CPC authorizes the Court to examine both parties at the time of first hearing in original proceedings. The same procedure can be adopted at the first hearing of Execution Petitions as well, particularly when claim petitions are filed.

→ 2. Many claim petitions are being filed in relation to immovable properties and are kept pending in Execution Petitions. According to Section 64(1) of CPC, private alienation of property, after attachment, is void. However, Section 64 (2) of CPC prescribes certain exceptions. The Presiding Officer has to examine whether the interest claimed by the claimant is based on registered document or whether such alleged rights were created prior to attachment.

→ 3. If the Court comes to conclusion that J.Dr, with a view to protract the proceedings and to prevent the D.Hr or the auction purchaser from taking possession of the property, has got filed such claim petition through third parties, the Executing Court shall resort to Section 74 (Order XXI Rule 98(2)) of CPC and send J.Dr to civil prison, thereby unwarranted claim petitions can be curbed.

→ 4. Order XXI Rule 58 contemplates adjudication upon claim petitions/objections, but such petitions shall not be entertained in respect of property attached and has already been sold, inasmuch as such claim petitions are designedly or unnecessarily filed to delay the EP proceedings.

→ 5. When the Court refuses to entertain objections/claim petitions, the party against whom the order of refusal passed, is entitled to institute a suit. However, the EP proceedings need not be stayed on the ground that suit is pending (Or.21 Rule 29 CPC).

→ 6. Order XXI Rule 59(b) specifically provides that the immovable property, pending adjudication of any claim petitions, may be sold at an auction in EP proceedings, however, such sales shall not be confirmed. However, such sales are subject to result of the claim petition.

→ 7. Once objections under Section 47 of CPC or Order XXI Rule 58 of CPC filed and registered, the Court shall examine whether recording of evidence in such petitions is necessary or not or can they be disposed of on affidavits or on the basis of admitted documents.

→ 8. The Executing Courts shall make an endeavor to decide such petitions without recording evidence. When the Court feels that recording of evidence is necessary to dispose of the above stated objection petitions, only then the Executing Courts shall proceed to record evidence.

→ 9. The Presiding Officers shall not adjourn the Execution Petitions to longer dates. However, due to any technical hurdles or pendency of various other proceedings (stay from the appellate courts), need may arise to adjourn the proceedings. In such an event, the Presiding Officer shall mention the same in the docket and shall grant short adjournments only.

→ 10. The Principal District Judges shall enquire whether the Presiding Officers are paying attention/taking care at the time of numbering the claim petitions. The Principal District Judges shall also monitor disposal of such claim petitions.

→ **SUGGESTIONS**

→ 1. The Presiding Officers of Executing Courts shall take steps to settle the Execution Petitions by way of mediation or through Lok Adalats, particularly the Execution Petitions relating to money decrees or awards. If the parties seek time on the ground of compromise, the Executing Courts should give only short dates.

→ 2. It is the duty of D.Hr to secure particulars of the legal representatives (LRs) of the deceased J.Dr. If the D.Hr is not prompt in taking steps, the Court shall close the Execution Petition instead of giving liberal adjournments.

→ 3. The Principal District Judges, as the members of District Arrears Committee/ District Court Management System Committee (DCMSC), shall monitor the disposal of Execution Petitions every month and shall advise the Presiding Officers, who are not able to attend to the disposal of the Execution Petitions effectively, to improve the disposal.

→ 4. The staff members who are attending to the Execution Petitions shall be thorough with the provisions and procedural aspects, thereby unnecessary and frivolous objections can be prevented. For this, to happen, the staff members shall be trained once in three months by the District Courts with the assistance of Senior Judicial Officers and senior retired staff members.

→ The principal objective of the Circulars are to ensure that ***Execution Petitions are decided and disposed of within a period of six months, without fail.***

→ Thus, the emphasis is not merely upon disposal of the original proceedings but upon ensuring that the decree-holder obtains the actual fruits of the decree within a reasonable period. The Circular assumes particular significance because execution proceedings constitute the final stage of civil litigation. A decree which remains unenforced for years substantially defeats the very purpose of adjudication. The six-month timeline therefore seeks to promote speedy execution, effective case management, accountability and meaningful enforcement of decrees.

7. EFFECT OF STAY ORDERS ON PENDENCY OF EXECUTION PETITIONS

→ One of the significant practical difficulties in the expeditious disposal of Execution Petitions is the pendency of proceedings on account of interim orders of stay granted by superior courts. An Execution Petition may be otherwise ready for further steps, but its progress may be arrested because the judgment or decree, or the execution proceedings arising there from, are stayed in revision, appeal, writ petition or other proceedings.

→ The legal position in this regard underwent a significant change with the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***High Court Bar Association, Allahabad v. State of Uttar Pradesh & Ors.,2024 6 SCC 267.***

→ In ***Asian Resurfacing of Road Agency Pvt. Ltd. v. Central Bureau of Investigation, (2018) 16 SCC 299***, a three-Judge Bench had directed that an order staying civil or criminal proceedings would ordinarily cease to operate on expiry of six months, unless specifically extended by a reasoned order. The object was to prevent proceedings from being indefinitely stalled by interim orders.

→ **However, the Constitution Bench in High Court Bar Association, Allahabad v. State of Uttar Pradesh overruled the said direction, holding that an interim stay does not automatically lapse merely on expiry of six months**. The Court held that a rigid time-limit cannot be imposed uniformly, as it may result in serious miscarriage of justice.

→ Impact on the Six-Month Timeline for Execution Petitions :

→ The present legal position is that mere expiry of six months does not authorize the Executing Court to ignore a subsisting stay order. The Executing Court must examine the exact scope and terms of the order passed by the superior court and proceed only to the extent legally permissible.

→ At the same time, a stay should not result in the Execution Petition being completely forgotten. The Executing Court should monitor the matter and, wherever possible, proceed with steps not prohibited by the stay, and resume execution immediately upon the stay being vacated or modified.

→ The period during which the court is legally prevented from proceeding cannot be treated in the same manner as an avoidable delay caused by:

i) repeated adjournments;
ii) non-service;

iii) failure to file documents;

iv) failure to take steps;

v) non-payment of process;

vi)or other procedural inaction.

→ Thus, for purposes of judicial monitoring, “pendency because of a subsisting judicial stay” should be distinguished from “pendency caused by avoidable procedural delay.” This distinction is particularly useful in implementing the objective of speedy disposal of Execution Petitions.

8. CONCLUSION

→ ***“Executio est finis et fructus legis”*** A classic Latin maxim meaning “ Execution is the end and the fruit of the law.” It emphasizes that a judgment is meaningless unless it is effectively enforced. Hence, execution is the most important aspect of civil justice and therefore, success of the entire civil justice system depends on the rate of success in executing decrees.

→ The trouble of the decree holder begins after he obtains a decree. This observation often repeated by Hon’ble Courts highlights how judgment-debtors frequently use procedural loopholes to delay justice. But it is to be noted that procedural law exists to help achieve justice and not to defeat it on technical grounds. As observed by Hon’ble Supreme Court in ***Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Anr. Etc. CIVIL APPEAL NO. 3640-3642 OF 2025*** that procedural law is always subservient to and is in aid of justice and any interpretation which eludes or frustrates the recipient of justice is not to be followed.

→ Thus, the Court must adopt a proactive approach in facilitating and suggesting amicable solutions between the parties in consonance with the spirit and provisions of Code of Civil Procedure. The principles laid down in ***Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Anr. Etc. CIVIL APPEAL NO.***

3640-3642 OF 2025 and ***Rahul S. Shah v. Jinendra Kumar Gandhi 2021 SCC OnLine SC 341*** provides a practical road-map to follow. The approach must shift from procedural formalism to substantial justice to achieve the objective of effective dispute resolution by reducing the burden of prolonged litigations. The decree granted should be a decree enforced- swiftly, effectively and justly.

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