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CRP No. 819 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-07-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**CRP No. 819 of 2026
and CMP No.4366 of 2026**

1. M.G.Senthil Palanivel
S/o. Late M.Ganesan, No.27, Bazaar Street,
Guruvarajapet, Arakkonam Taluk, Ranipet
District.

Petitioner(s)

Vs

1. S.Umapathi
S/o. Sambantham, No.130, Royapettah
High Road, Mylapore (Nearby Bakiya
Home Needs), Chennai-600 004.

Respondent(s)

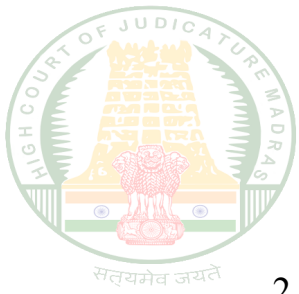
Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed by XX Additional City Civil Court, Chennai at Allikulam in I.A.No.1 of 2025 in O.S.No.2658 of 2025 dated 19.12.2025.

For Petitioner(s): Dr.C.Ravichandran

For Respondent(s): Mr.Thiruvengadam

ORDER

Herad Mr.C.Ravichandran, learned counsel for the petitioner and Mr.Thiruvengadam, learned counsel for the respondent.

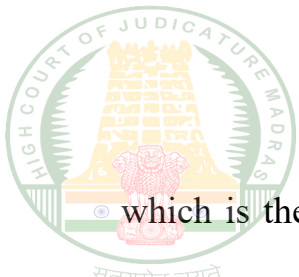


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2. The revision petitioner is the defendant, whose application, seeking unconditional leave to defend the suit, has been dismissed. Aggrieved by the order of rejection of the application, seeking unconditional leave to defend, the present petition has been filed. The suit has been admittedly filed under Order 37 of the Code of Civil Procedure Code, as a summary suit. The Code requires certain mandatory procedures to be adopted by the plaintiff even at the stage of institution of a summary suit.

3. It is the grievance of the petitioner that such mandatory compliances are not in place in the instance case. For instance, there is no specific averment that the suit has been filed under Order 37 of Code of Civil Procedure. There is also no inscription immediately below the number of the suit in the title of the suit mentioning “Under Order 37 of the Code of Civil Procedure” There is also no averment that no relief which does not fall within the ambit of the Rule has been claimed in the plaint. Learned counsel for the petitioner therefore states that even the Registry should have converted the suit as an ordinary Suit instead of numbering it as a Summary Suit. He would also point out that the plaint copy and the documents were not sent along with the notice, which is also mandatory and prescribed in the Rules. In this regard, he invites my attention to paragraph Nos.3 and 4 of the Affidavit filed in support of I.A.No.1 of 2025



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which is the application, seeking leave to defend the suit under Order 37 Rule 3(5) of Civil Procedure Code. Learned counsel for the petitioner therefore prays for the revision being allowed.

4. Per contra, Mr.Thiruvengadam, learned counsel for the respondent would state that the objection with regard to the suit not being in compliance with the provisions of Order 37 has not been taken up at the earliest instance and in fact, on the contrary, the petitioner, even after receipt of the plaint copy and copies of suit documents has chosen to file the application seeking leave to defend and therefore, he has submitted himself to the jurisdiction of the Court under Order 37 of Code of Civil Procedure. He therefore states that the objection cannot be taken for the first time in the revision petition that too, after an application for leave has been dismissed by the trial court on contest and merits.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. On going through the plaint, it cannot be disputed that there has been no compliance of the mandate of Order 37, Rule 2 of Civil Procedure Code. As pointed out

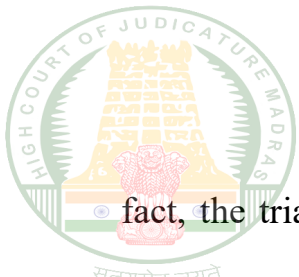


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by Dr.C.Ravichandran, learned counsel for the petitioner, necessary averments and inscriptions are not found in the plaint. Such a plaint should have been converted as an ordinary civil suit even at the stage of registration of the plaint itself. However, it has not been done and the suit has been numbered as a summary Suit under Order 37 of the Code of Civil Procedure. After receipt of notice from the respondent/plaintiff, the petitioner has sought for copies of the plaint and suit documents. The copies were furnished by the counsel for the respondent only thereafter, on 06.08.2025, in compliance with the request made by the petitioner/defendant. Though, in the counter affidavit to the leave to defend application, the respondent/plaintiff has stated that he has complied with the procedures prescribed under Rules 2 and 3 of Order 37 of Code of Civil Procedure and notice has been duly served and affidavit of service has also been filed on 16.07.2025, the respondent does not deny the fact that only along with the notice, the plaint and copies of documents were furnished. In fact, at Paragraph No.3, there is clear admission that the copies and plaint document were furnished pursuant to the counsel for the petitioner's request, on 06.08.2025. Therefore, viewed from any angle, the suit ought not to have been treated as a summary Suit and tried under Order 37 of Code of Civil Procedure in the first place.

7. The petitioner is certainly entitled to defend the suit unconditionally. In



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fact, the trial Court ought to have noticed the deficiencies and converted the suit as a regular Civil Suit instead of proceeding with it, as if it is a summary Suit under Order 37 of Code of Civil Procedure.

8. For all the above reasons, the civil revision petition is allowed and the order passed in I.A.No.1 of 2025 in O.S.No.2658 of 2025 dated 9.12.2025 is set aside and consequently, the decree in O.S.No.2658 of 2025 is also set aside and the suit is restored to file. The petitioner shall file written statement within a period of two weeks from the date of receipt of a copy of this order. The trial Court shall frame issues within two weeks thereafter and shall expedite the trial and dispose of the suit on or before 22.12.2026.

No costs. Consequently, connected miscellaneous petition is closed.

21.07.2026

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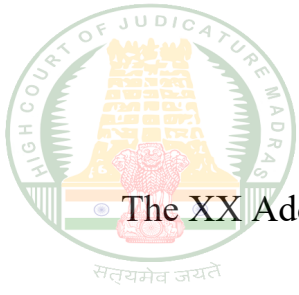
Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order

To

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The XX Additional City Civil Court, Chennai

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