



WEB COPY

CRP No. 2627 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 14-08-2026**

CORAM

**THE HON'BLE MR.JUSTICE P.B. BALAJI**

**CRP No. 2627 of 2026  
and CMP.No.11115 of 2026**

Naveen Jothi Builders  
Represented and Managed R.Palanisamy,  
By its Sole Proprietor,  
Occupation, Real Estate and Construction  
Business,  
S/o. Late P Rathinam,  
Plot IV, F7, Naveen Jothi, Skylab Avenue  
Extension,  
Sithalapakkam,  
Chennai-126.

..Petitioner(s)

Vs

Kusum Kuwar  
W/o S.L.Kankriya,  
Res at B 110, Swapnalok,  
60 EVK Sampath Road,  
Vepery,  
Chennai-7.  
Rep. by her Power of Attorney,  
Holder Bharat.k,  
S/o. Sunil,  
Nallana Muldali Street,  
Sowcarpet,  
Chennai-01.

..Respondent(s)



**Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 27.03.2026 passed in IA No. 6 of 2025 in OS No. 5739 of 2025 on the file of the XVIII Additional City Civil Judge at Chennai.

For Petitioner(s): Mr.S.Naveen Kumar

For Respondent(s): Mr.Nandakumar  
for M/s.Eswar Kumar & Rao

### **ORDER**

The revision petitioner is the defendant in a summary suit filed under Order 37 CPC. His application seeking leave to defend in I.A.No.6 of 2025 has been dismissed on two grounds, namely, delay in filing the application which ought to have been filed within 10 days from the date of service of summons for judgment and secondly, the petitioner has not shown any bona-fides or genuine defence as well, entitling him to leave under Order 37 CPC.

2. I have heard Mr.S.Naveen Kumar, learned counsel for the revision petitioner and Mr.Nandakumar, learned counsel for the respondent/plaintiff.

3. The learned counsel for the petitioner contends that the petitioner has substantial defence and for a mere delay of one day, the trial Court has declined to grant leave to defend the suit, without noticing that substantial triable issues arise for consideration. It is his further submission that the petitioner has made



repayments which have not been reflected in the plaint and unless an opportunity is given to test the suit claim on merits during trial, the petitioner will be seriously prejudiced. The petitioner also came forward to pay a sum of Rs.25 lakhs and in the last hearing, the petitioner was directed file an affidavit of undertaking with regard to payment of Rs.25 lakhs, which he offered to pay/deposit as directed by this Court. Today, the petitioner is present in Court and an undertaking affidavit has been filed by the petitioner, which is also dated today.

4. However in the undertaking affidavit that is now filed, the petitioner seeks further time to pay Rs.25 lakhs. It is clearly a ruse to gain further time. Hence the undertaking affidavit filed by the petitioner is rejected outright. Insofar as the leave to defend petition is concerned it is contented by the learned counsel for the petitioner that triable issues arise and therefore, atleast conditional leave could have been granted. However, on going through the affidavit filed in support of the application seeking leave to defend, as well as the counter affidavit and the impugned order, I find that it is not only delay alone that has been put against the petitioner, but the trial Court has also rightly found that no triable issues arise from the defence taken by the petitioner in the leave to defend application. The petitioner is only relying upon alleged cash payments in part satisfaction of the decree amount. Admittedly, there is no documentary evidence to establish such re-payments.



5. In such view of the matter, I do not find any merit in the revision petition and the trial Court has rightly dismissed the application seeking leave to defend. Accordingly, the civil revision petition stands dismissed. No costs. Consequently connected miscellaneous petition is also closed.

**14-08-2026**

Index: Yes/No  
Speaking/Non-speaking order  
DPQ



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**P.B.BALAJI, J.**

**DPQ**

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To

The learned XVIII Additional City Civil Judge  
Chennai .