



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-07-2026

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THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

**CRP No. 3990 of 2026
AND
CMP NO. 17448 OF 2026**

S.Ramesh Babu

..Petitioner

Vs

1. D.Palani
2. L.Susheela Devi

..Respondent

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the Order dated 21.04.2026 passed in I.A.No.11 of 2026 in O.S.No.7292 of 2024 on the file of the XIII Assistant City Civil Court, Chennai and allow this Civil Revision petition.

For Petitioner : Mr.K.Kannan

For Respondent : Mr.V.K.Sathiamurthy [R1]
Notice dispensed with [R2]

ORDER

This Civil Revision Petition has been filed by the petitioner, who is the 2nd defendant in O.S.No.7292 of 2024 on the file of the XIII Assistant City Civil Court, Chennai, aggrieved by the impugned order dated 21.04.2026 passed in I.A.No.11 of 2026 in O.S.No.7292 of 2024.



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2. Mr.V.K.Sathiamurthy, learned counsel, takes notice on behalf of the 1st respondent. Since no adverse order is passed against the 2nd respondent in this civil revision petition, notice to the 2nd respondent in this civil revision petition is dispensed with by this Court.

3. Under the aforesaid order, the application filed by the petitioner/2nd defendant seeking to pass a judgment on admission as against the 1st respondent/plaintiff and to dismiss the suit as per the provision of Order XII Rule 2 CPC has been dismissed with costs of Rs.5,000/- and the trial court has directed the petitioner to pay the said costs to the 1st respondent on or before 28.04.2026, failing which, the trial court has observed that the right of the petitioner to adduce evidence shall stand forfeited. While dismissing the application, the trial court has given the following reasons :-

(a) the pleadings and the deposition of P.W.1, which is relied upon by the petitioner by claiming that the 1st respondent has admitted certain facts, which will result in dismissal of the suit are neither clear nor unequivocal.

(b) the question as to when the 1st respondent acquired knowledge of the transactions is a matter, which requires appreciation of the evidence in its entirety and cannot be decided by picking isolated answers from the cross-examination.

(c) it is settled law that the plea of limitation, particularly when there is a doubt, is a mixed question of law and fact, the



same can be adjudicated only upon a full-fledged trial and appreciation of evidence.

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(d) the contentions regarding absence of pleadings or proof relating to possession and interference thereof are also matters, which falls within the realm of appreciation of evidence and cannot be construed as admissions warranting a judgment under Order XII Rule 6 of the CPC.

4. It is to be noted by this Court that in a similar petition filed by the 2nd respondent/1st defendant under Order VII Rule 11 CPC seeking rejection of plaint on the ground of limitation was dismissed by the trial court. The petitioner, who had already adopted the cross-examination conducted by the 2nd respondent, filed petitions in I.A.Nos.9 and 10 of 2026 seeking to reopen and recall P.W.1 for further cross-examination and the trial court by taking a liberal view allowed the said applications and the petitioner was afforded an opportunity to cross-examine P.W.1.

5. Despite availing the aforesaid opportunity, instead of proceeding to adduce evidence, I.A.No.11 of 2026 has been filed by the petitioner to pass a judgment on admission as against the 1st respondent and for dismissal of the suit, which would clearly indicate that the petitioner and the 2nd respondent for the reasons best known to them are acting in tandem and filing applications one after another. The present petition though styled as one under Order XII Rule 6



CPC is nothing, but an attempt to re-agitate the very same issue of limitation by projecting certain portions of the cross-examination as “admissions”, which in fact require appreciation of evidence and drawing inferences.

6. Instead of entering the witness box and adducing evidence in support of their defence, the defendants are repeatedly filing interlocutory applications, thereby attempting to protract the proceedings and delay the disposal of the suits. The conduct of the petitioner squarely falls within the mischief of abuse of process. The 1st respondent who has already completed recording his evidence, is being subjected to unnecessary delay and expense. Based on the aforesaid reasons, the trial court has dismissed the application filed by the petitioner in I.A.No.11 of 2026 and has imposed costs of Rs.5,000/- on the petitioner and has made it clear that if the costs is not paid on or before 28.04.2026, the right of the petitioner to adduce evidence shall stand forfeited.

7. Even though the reasoning of the trial court for dismissing the petitioner’s application in I.A.No.11 of 2026 in O.S.No.7292 of 2024 is a correct one, the trial court ought not to have imposed a condition that if the petitioner fails to pay the costs of Rs.5,000/-, the right of the petitioner to adduce evidence shall stand forfeited. The trial court ought to have just dismissed the application and could have just imposed costs on the petitioner without imposing a default condition in the impugned order, namely that failure



to pay the costs will result in the right of the petitioner to adduce evidence will get forfeited.

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8. Learned counsel for the petitioner would also submit before this Court that the petitioner's counsel never made an endorsement in the court bundle of the trial court that he is adopting the cross-examination of the 2nd respondent. According to him, *suo-motu* an endorsement has been made by the trial court that the petitioner is adopting the cross-examination of the 2nd respondent. Only if the records come before this Court, the truth can be unearthed with regard to the statement made by the learned counsel for the petitioner. If the records are called for, it will only delay the disposal of the suit. Therefore, in the interest of justice, this Court is of the considered view that a direction can be issued to the trial court to dispose of the suit, within a time frame to be fixed by this Court, instead of calling for the records from the trial court and ascertaining as to whether an endorsement was made by the petitioner's counsel in the court bundle that the petitioner is adopting the cross-examination of the 2nd respondent in the suit or not.

9. Since sound reasons have been given by the trial court in the impugned order, this Court is not interfering with the major operative portion of the impugned order but is only interfering with regard to the consequential order passed by the trial court in the impugned order dated 21.04.2026 in I.A.No.11 of



2026, namely that if the petitioner commits default in payment of the costs of Rs.5,000/- to the 1st respondent on or before 28.04.2026, the right of the petitioner to adduce evidence shall stand forfeited. In fact, no such request was made by the 1st respondent before the trial court that in the event of non-payment of the costs, the right of the petitioner to adduce evidence shall stand forfeited. Therefore, unnecessarily, the consequential order, namely failure to pay the costs of Rs.5,000/- by the petitioner on or before 28.04.2026, will result in the right of the petitioner to adduce evidence getting forfeited has to be set aside by this Court. In respect of costs of Rs.5,000/- imposed by the trial court under the impugned order, the learned counsel for the 1st respondent has fairly submitted before this Court that the 1st respondent is not insisting on the payment of the costs by the petitioner, but at the same time, he would submit that the suit has to be disposed of as expeditiously as possible.

10. For the foregoing reasons, this Civil Revision Petition is partly allowed by interfering only with the consequential order passed by the XIII Assistant City Civil Court at Chennai on 21.04.2026 in I.A.No.11 of 2026 in O.S.No.7292 of 2024 by setting aside the directions given to the petitioner to pay the costs of Rs.5,000/- to the 1st respondent on or before 28.04.2026, failing which, the right of the petitioner to adduce evidence shall stand forfeited. Excepting for setting aside the said direction, this Court is not interfering with the reasons given by the trial court for dismissing the petitioner's application in



I.A.No.11 of 2026. Since the suit is of the year 2024 and it is in the part-heard stage, this Court directs the XIII Assistant City Civil Court, Chennai to dispose of the suit in O.S.No.7292 of 2024, within a period of eight (8) months from the date of receipt of a copy of this order. However, it is made clear that the petitioner shall co-operate during the course of trial by not seeking any unnecessary adjournments before the trial court. No costs. Consequently, the connected miscellaneous petition is closed.

21-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

The XIII Assistant City Civil Court,
Chennai.



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ABDUL QUDDHOSE J.

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