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CRP. No.2842 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:17.07.2025

Pronounced on: 14.08.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.2842 of 2025
and CMP. No.16073 of 2025**

Mrs.V.Muniyammal

Petitioner

Vs

Mr.Narayansamy

Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned docket order dated 01.07.2025 passed in I.A. (SR). No.2685 of 2025 in O.S. No.21 of 2024 on the file of the learned Subordinate Judge, Alandur and direct the learned Trial Court to entertain and dispose of I.A. (S.R) No.2685 of 2025 in O.S. No.21 of 2024 on the file of the learned Subordinate Judge, Alandur on merits.

For Petitioner : Mr.V.Ravishankar

For Respondent : Mr.V.Raghavachari,
Senior Counsel for
Mr.S.Kadarkarai

**ORDER**

The defendant in O.S. No.21 of 2024 on the file of the Sub Court, Alandur is the revision petitioner. The first defendant had filed an Application in I.A. SR. No.2685 of 2025, seeking permission to cross examine the plaintiff, however, the said Application came to be rejected by a docket order, as against which, the present revision has been filed.

2. I have heard learned counsel for the petitioner Mr.V.Ravishankar and Mr.V.Raghavachari, learned Senior Counsel for Mr.S.Kadarkarai, learned counsel for the respondent.

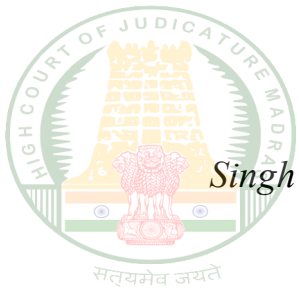
3. The learned counsel for the petitioner would state that the respondent as plaintiff has filed a suit for recovery of vacant possession, monetary claim of Rs.7,50,000/- representing alleged arrears of rent and damages for the household articles and for costs. In the said suit, the respondent/plaintiff had filed I.A. No.2 of 2025 seeking a direction to the revision petitioner to deposit the arrears of rent and subsequent rents before the Court. The said Application, after contest was allowed by the Sub Court, Alandur, directing the revision petitioner to deposit the



arrears of amounts on or before 30.05.2025, with a further order by way of consequence that if the condition is not complied with, then defence of revision petitioner would be struck off.

4. Admittedly, the said conditional order was not complied by the revision petitioner and the order in I.A. No.2 of 2025 was also not challenged by way of any appeal or revision. Therefore, the said order in I.A. No.2 of 2025 has become final and worked itself out. Consequently, the defence of the revision petitioner in the suit now stands struck off. However, the revision petitioner sought for permission to cross examine the plaintiff and the said Application has been rejected by the Trial Court stating that in view of the order in I.A. No. 2 of 2025, the petition itself is not maintainable. The said order is under challenge in this revision.

5. The learned counsel for the revision petitioner would state that even though the defence of the revision petitioner may have been stuck off, his entitlement to cross examine the plaintiff on the plaint averments cannot be denied or taken away. In this regard, he places reliance on the decision of the Hon'ble Supreme Court in *Modula India vs. Kamakshya*

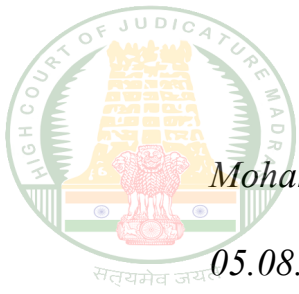


Singh Deo, reported in (1988) 4 SCC 619.

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6. Per contra, Mr.V.Raghavachari, learned Senior Counsel appearing for Mr.S.Kadarkarai, the learned counsel for the respondent, would state that the Application in I.A. No.2 of 2025 was in the nature of an Application under Section 11 (4) of the Tamil Nadu Building Lease and Rent Control Act, Act 18 of 1960, (in short 'Act'), and consequent to non compliance of an Order under Section 11(4) of the Act, directing payment of arrears of rent, the tenant would lose his right to contest the main Rent Control proceedings and consequential eviction order would be passed without any further opportunity being granted to the tenant, subject to any orders passed by higher Forum viz., the Appellate Authority in Appeal or Hon'ble High Court, in revision.

7. The learned counsel would therefore state that once the defence has been struck off, owing to non compliance of conditional order in I.A. No.2 of 2025, it is not open to revision petitioner to seek cross examination of the plaintiff. The learned Senior Counsel would fortify his submission placing reliance on the decision of this Court in *V.S*



Mohan Vs. Sarath Naseera and others, in CRP. No.782 of 2023, dated

05.08.2022, where the tenant was facing proceedings for eviction under the new rent enactment viz., Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, by the landlord who had filed an RLTOP and sought for eviction on the ground that there is a failure to enter into a tenancy agreement as contemplated under Section 21 (2)(a) of the said new enactment. In the said proceedings, the tenant took out an Application seeking permission to cross examine the landlady. The said Miscellaneous Petition was dismissed by the Rent Court in view of the ratio laid down *J.Thennarasu Vs. Anita Nalliah*, reported in (2022) 6 MLJ 27, and holding that no case has been made out to operate as an exception to the conditions that have been illustrated by this Court in *J.Thennarasu*'s case, warranting permission to be given for cross examination. The decision in *J.Thennarasu*'s case is also relied on for the very same purpose.

8. First of all, it is to be noted that the proceedings are not arising under the new rent enactment viz., Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 or under the



erstwhile Tamil Nadu Buildings (Lease and Rent Control) Act, Act 18 of 1960. Both the Acts contemplate summary procedure for disposal of the Applications/Petitions seeking eviction and for various other reliefs that are permissible under the respective enactments. However, in the present case, the proceedings are in the nature of a civil suit. Therefore, the decisions which have been rendered under special enactments cannot be pressed into service and therefore, straightaway I do not see how the decisions that are relied on by the learned Senior Counsel appearing for the respondent can be applied to the facts of the present case.

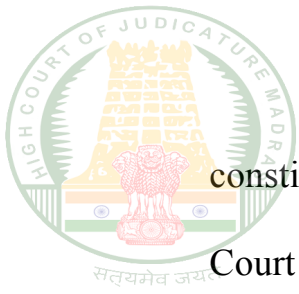
9. In any event, in view of the fact that the present revision arises out of a Civil Suit, where the defence of the revision petitioner has admittedly being struck off, the only question that remains is as to whether the defendant would still have a right to seek cross examination of the plaintiff/plaintiff's witnesses. In this regard, the decision of the Hon'ble Supreme Court *Modula India's* case, (referred herein supra), becomes relevant.



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10. The Hon'ble Supreme Court has held that in a Civil Suit, even if there is absence of defence, it would not entitle the plaintiff to a decree straightaway, as defence or no defence, the plaintiff has to satisfy the Court that he deserves a decree to be passed in his favour. The Hon'ble Supreme Court held that a provision like Section 17(3) of West Bengal Premises Tenancy Act 1956 was a provision *in terrorem*, since it seeks to penalise the defendant for certain defaults, the Court would have to act with great circumspection before striking out the defence of the tenant under this provision. The Hon'ble Supreme Court further held that it does not necessarily follow that even if defence is struck off, the defendant is completely helpless and that the conduct of the case should be so crippled as to render a decree against him inevitable and holding that in the context of tenancy legislation, the provisions would have to be construed strictly and the disabilities of a person in default should be limited to minimum extent, consistent with the requirement of justice.

11. The Hon'ble Supreme Court finally held that even if the defence is taken away or stuck off, the defendant would still be entitled to cross examine the plaintiff and plaintiff's witnesses, which only



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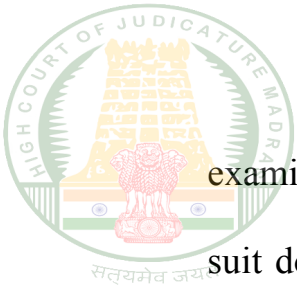
constitute a finishing touch of completion of the plaintiff's case, since a Court on its own motion can do very little to ascertain the truth or otherwise on the plaintiff's averments and it is only the opposite party who would be more familiar with facts and can assist the Court in pointing out defects, weaknesses, errors and inconsistencies of the plaintiff's case. The Hon'ble Supreme Court also however cautioned that such a right to permit the defendant to cross examine and argue the matter should be subject to important safeguards viz., non permitting the defendants to lead his own evidence and substantiate his case, under the guise of cross examination and purported demolition of the plaintiff's case. The Court should have to restrict questions put in cross examination carefully without allowing the defendant to put forth his case. Yet another safeguard that has been laid down by the Hon'ble Supreme Court is that the Court should ensure, while permitting the defendant to cross examine the witnesses or participate in the proceedings by advancing arguments, the Court using its wide discretion regulate the cross examination in such a manner to avoid any real prejudice to the interest of the plaintiff. The said ratio laid down by the Hon'ble Supreme Court in *Modula India's* case, (referred herein supra),



would squarely apply to the facts of the present case. It was also a case arising between a landlord and tenant and the defence of the tenant had been struck off. Therefore, in the present case as well, in almost identical circumstances, request for cross examination has been rejected, which is against the ratio laid down by the Hon'ble Supreme Court in *Modula India's* case, (referred herein supra).

12. In the light of the above, I am inclined to allow the revision and permit cross examination of the plaintiff/plaintiffs' witnesses by the defendant with the safeguards that have been set down by the Hon'ble Supreme Court in *Modula India's* case, (referred herein supra).

13. In fine, this Civil Revision Petition is allowed and order in I.A.SR.2685 of 2025 in O.S. No.21 of 2024 is set aside. As the arguments have been advanced elaborately on the merits of the Application as well maintainability, there is no useful purpose in directing another round of enquiry in the said I.A. Therefore, the Trial Court shall formally allow after numbering the Application and permit the revision petitioner/defendant to cross examine the plaintiff/P.W1. Such cross



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examination shall be limited to the plaint averments and allegations and suit documents alone and the revision petitioner shall not be allowed to advance his case, which was set up by way of written statement and subsequently struck off. the Trial Court shall ensure that the cross examination by the revision petitioner is within the boundaries of the plaint and nothing beyond. Considering the suit is of the year 2024 and the scope of cross examination is also limited and there can be no evidence on the side of the defendants, the Trial Court shall endeavour to dispose of the suits within a period of six (6) months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is also closed. No costs.

14.08.2025

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Index : Yes
Internet : Yes

To:
The Sub Judge,
Alandur.



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CRP. No.2842 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. No.2842 of 2025
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