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C.R.P.Nos.4230 & 4231 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**C.R.P.Nos.4230 & 4231 of 2025
and C.M.P.Nos.21777 & 21778 of 2025**

S.Mohan Kumar
S/o.Seshmal,
No.18 Hunters Road, Choolai,
Chennai - 600 112.

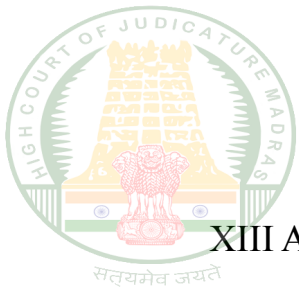
Petitioner(s)/Plaintiff(s) in both cases
Vs

1.M.Usha
W/o.K.I.Manirathinam,
residing at No.385, Kutchery Street,
Kattumannarkoil Town, Cuddalore District.

2.K.I.Manirathinam
S/o.K.Iyyakannu,
residing at No.385, Kutchery Street,
Kattumannarkoil Town, Cuddalore District.

Respondent(s)/Defendant(s) in both cases

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the common order dated 22.08.2025 passed in I.A.Nos.4 & 5 of 2025 in O.S.No.6045 of 2017 on the file of the



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XIII Assistant City Civil Court, Chennai.

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For Petitioner(s)
in both cases: Ms.A.S.Neela Narayani

For Respondent(s)
in both cases: Mr.N.Suresh

COMMON ORDER

Challenging the common order dated 22.08.2025 passed in I.A.Nos.4 & 5 of 2025 in O.S.No.6045 of 2017 on the file of the XIII Assistant City Civil Court, Chennai, the petitioner/plaintiff has preferred the present civil revision petitions.

2. For the sake of convenience, the parties will be referred to as per their rankings in the trial Court.

3. The plaintiff has filed a suit in O.S.No.6045 of 2017 seeking the relief of permanent injunction restraining the defendants, their men, or any other person or persons claiming through them from demanding the pronote and other loan documents from the plaintiff without settling the lawful amount due to the plaintiff.



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4. Before the trial Court, the defendants have filed their written statement, issues were framed and trial also commenced. On the side of the plaintiff, the plaintiff examined himself as PW1 and Exs.A1 to A6 were marked. On the side of the defendants, the second defendant examined himself as DW1 and Exs.B1 to B4 were marked.

5. It is seen from the records that DW1 was cross-examined in part on 05.07.2024. Thereafter, the cross-examination of DW1 was closed on 17.03.2025.

6. Aggrieved over the same, the plaintiff has filed two applications in I.A.Nos.4 & 5 of 2025 to reopen and recall DW1 for cross-examination on the side of the plaintiff.

7. After hearing both sides, the Court below dismissed the applications on the ground that the suit is of the year 2017 and pending for more than seven years and the same cannot be kept to be pending endlessly at leisure of the plaintiff. The trial Court, in the impugned order, has also



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observed that on an earlier occasion, the plaintiff has chosen to file reopen and recall petitions at the time of arguments and the same were dismissed for default on 22.07.2025 and thereafter, in order to restore the same, the plaintiff filed I.A.Nos.6 and 7 of 2025, which were allowed by the Court below on 12.08.2025.

8. The learned counsel appearing for the petitioner/plaintiff would submit that an opportunity may be given to the plaintiff to cross-examine DW1 to establish his case.

9. *Per contra*, the learned counsel appearing for the respondents/defendants objected the same and stated that on an earlier occasion, the plaintiff has chosen to file applications to reopen and recall the witness of DW1 and the same were dismissed for default and thereafter, he has filed applications to restore the same and those applications were allowed by the Court below. This shows the conduct of the plaintiff that he is lethargic and deliberately negligent in pursuing the case effectively.

10. It is seen from the records that the suit is filed for permanent



injunction against the defendants from demanding for repayment of loan without settling the amounts due to the plaintiff. The suit is filed in the year 2017 and the Court below has also framed necessary issues as early as on 23.09.2019 and trial has also begun on 11.12.2019 and the plaintiff's side evidence has also been closed long back. The plaintiff has cross-examined DW1 only on 05.07.2024 and thereafter, not chosen to cross-examine DW1, though he was present before the Court below.

11. Upon considering the submissions made on either side and also considering the nature of *lis* between the parties, in the interest of justice and in order to provide an opportunity to the petitioner/plaintiff, this Court is inclined to issue the following directions:

- (a) The common order dated 22.08.2025 passed in I.A.Nos.4 & 5 of 2025 in O.S.No.6045 of 2017 on the file of the XIII Assistant City Civil Court, Chennai, is set aside;
- (b) DW1 shall be present before the trial Court on 08.09.2025 at 10.30 a.m. and on the same day, the petitioner/plaintiff shall cross-examine him;
- (c) If any further evidence is available on the side of the defendants,



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they shall continue to produce the same before the trial Court; and

(d)After hearing the arguments on both sides, the trial Court shall dispose of the main suit preferably before the end of this month.

With the above observations, these civil revision petitions stand disposed of. No costs. Connected C.M.Ps. are closed.

03-09-2025

nsd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes;
Neutral Citation: Yes/No

Note: Issue copy of this order on 04.09.2025



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To

The XIII Assistant Judge,
City Civil Court, Chennai.



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M.JOTHIRAMAN J.

nsd

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