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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.09.2025

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THE HONOURABLE MR JUSTICE M.JOTHIRAMAN

CRP.No.4457 of 2025

and CMP.No.22784 of 2025

M/s.Vivaan Hotels Private Limited.

Represented by its Managing Director,
Mr.Varun Singhal

... Petitioner

Vs.

M/s.Stallion Group,
represented by its Proprietor
Mrs.Vibha Jaggi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 29.08.2025 passed in I.A.No.6 of 2025 in C.O.S.No.962 of 2022 on the file of the Principal Commercial Court, Egmore, Chennai.

For Petitioner : Mr.M.Aravind Subramanian
Senior Counsel for
Mr.Sriprada Prabhakar

ORDER

The unsuccessful plaintiff has preferred the petition.



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2. The suit in C.O.S.No.962 of 2022 on the file of the Principal Commercial Court, Egmore, filed for recovery of money for a sum of Rs.68,66,508/-. The defendant has filed written statement. Necessary issues were framed. Thereafter the case was posted for trial. On behalf of the plaintiff's company, one authorized person of the plaintiff's company Mr.Baskar Swaminathan was examined as PW1 and Exs.A1 to A17 were marked. PW1 was also cross examined. At this stage, Managing Director of the plaintiff's company Mr.Varun Singhal has filed an application in I.A.No.6 of 2025 in C.O.S.No.962 of 2022 under Order XVIII Rule 3A of Civil Procedure Code, to permit the plaintiff to depose as a witness on behalf of his wife Mrs.Divya Singhal.

3. Upon hearing either side, the Court below vide order dated 29.08.2025 dismissed the application on the ground that when PW1 was authorized to depose evidence, the revision petitioner Mr.Varun Singhal was too busy engaged in his work at Delhi to attend the Court. However after the evidence of PW1 was concluded, he now finds it necessary to appear before this Court and depose evidence. Thus it is apparent that the revision petitioner only waited to see how his authorized person fares in evidence and



then based on his evidence, has now decided to step into the witness box.

Thus, it is apparent that the intention of the revision petitioner is only to fill up the gaps in the evidence. There is no genuine reasons made out by the revision petitioner for allowing the petition and finds that petition lacks merit and deserved to be dismissed. Aggrieved over the same, the present civil revision petition has been filed.

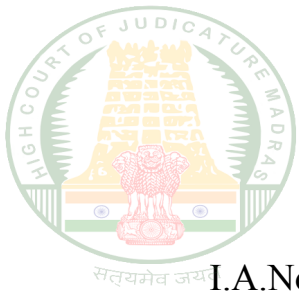
4. The learned Senior counsel appearing for the revision petitioner would submit that the petition came to be filed under order XVIII Rule 3A of CPC which is directory and not mandatory. The Court below erred in treating the provision as mandatory. The proposed deposition concerns of the facts which are within the exclusive personal knowledge of the Managing Director, which PW1 could not testify to. This is not an attempt to fill up lacunae but to ensure the Court has all relevant material. The Court below failed to weigh the irreparable prejudice to the revision petitioner if denied the opportunity to lead material evidence, against the minimal inconvenience to the defendant, who retains full rights of cross-examination. The balance of convenience lies in favour of the revision petitioner. The refusal to exercise discretion vested under Order XVIII Rule 3A of CPC on



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irrelevant considerations constitutes a material irregularity warranting supervisory interference. To strengthen his contentions, the learned senior counsel relied upon the judgment of Hon'ble Supreme Court in ***Surya Dev Rai Vs. Ram Chander Rai, reported in (2003) 6 SCC 675.***

5. It is seen from records that the suit is filed by M/s.Vivaan Hotels Private Limited represented by its Managing Director, Mr.Varun Singhal as against the defendant company namely M/s.Stallion Group represented by its Proprietor Mr. Vivek Jaggi. The defendant has filed written statement. After framing the necessary issues, the case was posted for trial. On behalf of the plaintiff's company, the Managing Director of the plaintiff company Mr.Varun Singhal has authorized one Baskar Swaminathan under Ex.A1 to depose evidence on behalf of the plaintiff's company. Accordingly the said Mr.Baskar swaminathan was examined as PW1 and Exs.A1 to A17 were marked. The defendant has also cross-examined PW1. Thereafter the said Managing Director Mr.Varun Singhal has filed an application in I.A.No.6 of 2025 under Order 18 Rule 3(A) of C.P.C., to permit the plaintiff to depose as a witness on behalf of his wife Mrs.Divya Singhal.



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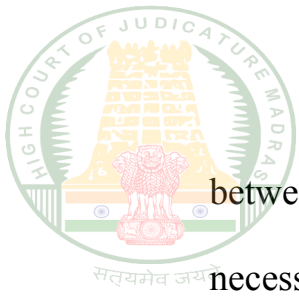
6. It is seen from the affidavit filed by the revision petitioner in I.A.No.6 of 2025, wherein it has been stated that he has given authorization to Pw1/Baskar Swaminathan as he was the employee based in Chennai and also run other businesses including representing various commercial foreign airlines and stationed in Delhi. It is also stated in paragraph 5 and 6 of the affidavit which reads as under:

“5.I state that the examination of the witness of PW1 even though on behalf of the plaintiff the other parties namely K House who is one of the defendants in the connected COS 959 of 2022 was taken over by the plaintiff herein and was personally compensated by Mrs.Divya Singhal marked as Exhibit A17. I state that only upon perusal of Exhibit A17, it was understood that the said transaction was between K House and Mrs.Divya Singhal personally and therefore it is necessary for me to depose on behalf of my wife Mrs.Divya Singhal. Hence the delay is not wilful nor wanton and is only due to the above said bonafide reason.



6. *I submit that I wish to depose for proving the exhibit A17 and certain other queries to which I am privy. The rentals paid by K House were absorbed by the plaintiff company. Hence my evidence to substantiate these expenses which forms a major part of the claim which has to be explained. Further being the husband of Mrs.Divya Singhal who is also the Director of the Vivaan Hotels Private Limited. I wish to depose on behalf of my wife, who cannot travel due to personal reasons. I submit that as per section 126 of the Bharathiya Saskhyaadhinayam, a husband can depose on behalf of the wife in civil proceedings.”*

7. It is seen from the affidavit it has been stated that PW1 even though examined on behalf of the plaintiff's company, the other parties namely K House is one of the defendants in connected suit in C.O.S.No.959 of 2022 was taken over by the plaintiff's company and was personally compensated by Mrs.Divya Singhal marked as Exhibit A17. The said Divya Singhal is the wife of the Managing Director/Mr.Varun Singhal. It is also been stated that only upon perusal of Ex.A17, it was understood that the said transaction was



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between K House and Mrs.Divya Singhal personally and therefore it is necessary for the revision petitioner to depose on behalf of his wife/Mrs.Divya Singhal.

8. A perusal of the reasons stated in the affidavit shows that the revision petitioner only upon perusal of Ex.A17 came to understand that these transactions between K House and the revision petitioner's wife/Mrs. Divya Singhal personally compensated and therefore it is necessary to permit him to depose evidence on behalf of his wife. However, the same is not permissible, since the transaction between the revision petitioner's wife and the K House company is a separate transaction and the same has to be established by the said Mrs.Divya Singhal herself. Admittedly the suit is filed by one of the Managing Director/Mr.Varun Singhal and the suit is not filed by Mrs.Divya Singhal. In such circumstances the revision petitioner/husband cannot lead evidence on behalf of his wife/ Mrs.Divya Singhal, In such circumstances, the revision petitioner has not obtained any previous permission from the Court below.



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9. What is relevant under Order 18 Rule 3 of CPC is that the petitioner must satisfy the Court that he was unable to appear and give evidence in support of his case as a first witness. If a party decides to examine himself after his witness, he must obtain permission of the Court to do so when he commence to lead his evidence. A party deliberately keep himself away cannot seek indulgence of the Court. However the revision petitioner is the Managing Director of the plaintiff's company, he can very well examine himself as a witness to establish his case.

10. It is made clear that the revision petitioner/Manging Director Mr.Varun Singhal cannot be permitted to depose as a witness in the suit on behalf of his wife Mrs.Divya Singhal. Therefore, the Court below has rightly dismissed the application filed by the revision petitioner and there is no merit in this revision petition. It is to be noted that given the mandate of the Commercial Courts Act, 2015 for expeditious and fair adjudication, exclusion of evidence undermines the statutory objective and an opportunity shall be provided to establish the case.



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11. In view of the above, liberty is granted to the revision petitioner/Mr.Varun Singhal who can himself examine as a witness and or his wife as a witness in a manner known to law.

12. With the above observation, this civil revision petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.09.2025

Speaking/Non-speaking : Yes/No
Index : Yes / No
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To
The Principal Commercial Court, Egmore, Chennai.

M.JOTHIRAMAN,J.



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