



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP Nos. 1236 & 1238 of 2026

and

CMP.Nos.6118 & 6121 of 2025

1. Zaheer Naz Moin
W/O. Late Syad Moiunuddin, Old
No.6, New No.13, 2nd Floor, Maroof
Sahib Street, Mount Road, Chennai -
600002.

Petitioner(s) in both CRPs

Vs

1. S.I.Sibagathullah
S/O. Late Ismail Sahib, Old No.6, New
No.13, 3rd Floor, Maroof Sahib Street,
Mount Road, Chennai - 600002.

Respondent(s) in both
CRPs

PRAYER in 1236 of 2026:

Civil Revision Petition filed under Article 227 of Constitution of India, prays to set aside the order passed in IA No.10 of 2025 in OS 486/2022, dated 12.01.2026 before the learned XXV Judge City Civil Court at Allikulam, Chennai – 02.

PRAYER in 1238 of 2026:

Civil Revision Petition filed under Article 227 of Constitution of India, prays to set aside the order passed in IA No.9 of 2025 in OS 486/2022, dated 12.01.2026 before the learned XXV Judge City Civil Court at Allikulam, Chennai - 02.

For Petitioner(s): R.Krishnakumar



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For Respondent:

ORDER

Challenging the impugned order passed in I.A. No 9 of 2025 in O.S.No.486 of 2022, filed under Order IX Rule 7 CPC to set aside the exparte order dated 28.10.2025, and I.A. No 10 of 2025 in O.S.No.486 of 2022, filed under Section 151 of CPC, to reopen the DW1 evidence in the suit, the present revision has been filed.

2. Before the trial Court, the revision petitioner herein is the defendant in O.S. No.486 of 2022. The said suit was filed by the respondent herein / plaintiff seeking the relief of permanent injunction restraining the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the property except by due process of law.

3. The defendant appeared before the trial Court. She is the landlady and is aged more than 65 years. She filed her written statement and counter objections. Thereafter, the suit was posted for trial. P.W.1 was examined, and the case was posted for cross-examination on 21.06.2024.



4. However, since the date was not properly informed to her, she was unable to give proper instructions to her counsel and could not appear before the Court on that day. Consequently, she was set ex parte and the case was posted for arguments on 12.12.2020. Immediately thereafter, she filed an application to set aside the ex parte order, which was allowed by the learned trial Judge and the matter was posted for cross-examination on 04.03.2021.

5. Again, due to illness and having undergone surgery, she was unable to appear before the trial Court, even with the assistance of her son who was following the proceedings. Therefore, she was once again set ex parte. Subsequently, she filed applications to reopen the evidence and recall the witness, but since the evidence had already been closed, the learned trial Judge dismissed the application on the ground that she had not cooperated with the proceedings and had been attempting to prolong the matter. Aggrieved by the same, the present revision has been filed.

6. The learned counsel for the petitioner / defendant submitted that the petitioner is an elderly landlady aged more than 65 years and was unable to appear before the Court due to illness. He further submitted that her son has been diligently following the proceedings. However, the Court below failed to



grant sufficient opportunity to the defendant to defend the case. Therefore, the learned counsel prayed that the impugned order be set aside.

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7. Considering the facts and circumstances of the case, it is seen that the respondent has filed the suit based on an alleged sale agreement and has admitted that the petitioner is the landlady. The dispute between the parties appears to be mainly with regard to the payment of advance amount.

8. Admittedly, the petitioner is more than 65 years old, and her son has been following the proceedings on her behalf. If an opportunity is not granted to the petitioner, her valuable right to defend the case would be defeated. The suit is of the year 2022, and therefore the learned trial Judge ought to have granted reasonable opportunity to the revision petitioner/defendant.

9. Though it is true that on two occasions the petitioner failed to appear before the trial Court, considering her age and circumstances, this Court is inclined to set aside the order passed by the learned trial Judge in IA Nos.9 & 10 of 2025 in OS 486/2022, subject to the condition that the petitioner shall cooperate for the early disposal of the case.



10. Both the parties are senior citizens, and the petitioner has now expressed her willingness to examine her son as a witness on her behalf.

Therefore, the learned trial Judge is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order.

11. With the above directions, **the Civil Revision Petitions are Allowed.** Consequently, the connected miscellaneous petitions are closed. No Costs.

12. Since the dispute is primarily with regard to the payment of advance amount, the parties are directed to refer the matter for mediation. **Mrs.Sreedevi, Cell: 98401 35730, is instructed to act as a Mediator.** The Mediation and Conciliation Centre, Chennai, is directed to issue notice to both the parties and to take up the matter for hearings, not less than three sittings. Both the parties are directed to appear before the Mediation without fail on 07.04.2026. The Registry is directed to send the papers to the Mediation and Conciliation Centre, Chennai.

13. If the mediation does not succeed, both the parties are directed to appear before the trial Court on 21.04.2026.

09-03-2026



Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.S.I.Sibagathullah

S/O. Late Ismail Sahib, Old No.6, New
No.13, 3rd Floor, Maroof Sahib Street,
Mount Road, Chennai – 600002.

2. The XXV Judge City Civil Court at
Allikulam, Chennai – 02.

3.The Mediation and Conciliation
Centre, Chennai.

4. The Section Officer, VR section,
High Court of Madras.



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T.V.THAMILSELVI J.
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