



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CRP No. 2410 of 2022
and CMP No. 12423 of 2022**

V. Krishnan

..Petitioner(s)

Vs

E. Vijayalakshmi

..Respondent(s)

Prayer : This petition has been filed under Section 115 of the Code of Civil Procedure, to set aside the decretal order dated 21.04.2022 made in I.A. No. 2 of 2021 in O.S. No. 476 of 2017 on the file of the X Assistant Judge, XII Assistant City Civil Court (FAC), Chennai.

For Petitioner(s):	Mr. G.Prabhakar
For Respondent(s):	Mr. M.Theiva Kumar

ORDER

This Civil Revision Petition has been filed to set aside the decretal order dated 21.04.2022 made in I.A. No. 2 of 2021 in O.S. No. 476 of 2017 on the file of the X Assistant Judge, XII Assistant City Civil Court (FAC), Chennai.

2. The learned counsel for the petitioner would submit that the respondent herein had instituted a suit for recovery of money based upon a fabricated promissory note, which was decreed exparte earlier and had come to the knowledge of the petitioner only during the Execution Proceedings. Thereafter, the petitioner had taken out applications to set aside the exparte order in the



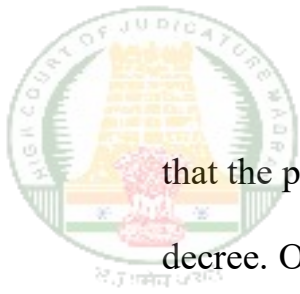
Execution Proceedings as well as in the Suit, which were also ordered.

Thereafter, the petitioner had taken out an application seeking leave to defend mainly contending that the suit promissory note is a fabricated one, and also not meeting out the parameters of the Negotiable Instrument Act. The learned Judge, without considering the claim of the petitioner in its proper perspective, had dismissed the application and refused to grant leave to the petitioner to defend himself by holding that such defences raised by the petitioner are all moonshine defence and there are no triable issues to defend.

3. He would submit that the very same respondent had also instituted two other Summary Suits as against the family members and even in the said suits, leave to defend was rejected and this Court had intervened in C.R.P. (NPD) Nos. 1766 and 1767 of 2019 and had granted leave to defend.

4. The petitioner would submit that in the present case also, the petitioner has a valid defence and without considering the same, the leave had been rejected. Hence, he seeks indulgence of this Court in the order impugned herein and direct to grant of leave to the petitioner to defend the suit.

5. Countering his arguments, Mr.M.Theiva Kumar, learned counsel appearing for the respondent would submit that the respondent had instituted the suit as early as in the year 2017 based upon a promissory note. He would submit



that the petitioner had kept himself away, which ended up in granting an exparte decree. On the said decree, an Execution Proceeding was also initiated, wherein exparte orders were passed. Only thereafter, the petitioner had sought to set aside the exparte orders in the execution petition as well as the judgment and decree in the suit. The same has also been allowed in favour of the petitioner. By taking advantage of the same, without any proper cause or any proper reason, the petitioner is attempting to seek a leave to defend the suit.

6. He would submit that the attempt made by the petitioner is only to protract the proceedings by putting up usual defences. He would submit that the case relating to the family members of the petitioner had been decreed in favour of the respondent in spite of leave being granted. Hence, he would submit that it is only a useless formality in permitting the petitioner to defend his suit. Hence, he seeks dismissal of the suit.

7. I have carefully considered the submissions of the learned counsel for the petitioner and the respondent.

8. The petitioner had disputed the promissory note upon which the summary suit had been instituted by the respondent. When such a defence of fabricated promissory note had been made, such defence cannot be thrown out without granting leave to defend the suit. If the petitioner is able to substantiate



that the said promissory note is a fabricated one, the suit itself will have to fall.

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9. In such event, the reasons attributed by the Court below in refusing to grant leave would only prejudice the claim of the petitioner, who is the defendant in the suit.

10. By considering the fact that the petitioner had suffered an ex parte decree and also an ex parte order in the Execution Proceedings and only thereafter, he had approached the Court seeking to set aside ex parte orders and thereafter, filed the present application, this Court is of the view that the petitioner can be put on terms to grant the leave to defend.

11. For the aforesaid reasons, the Civil Revision Petition stands allowed. The order in I.A. No. 2 of 2021 is set aside and the petitioner is granted to leave to defend the suit in O.S. No.476 of 2017 on condition that the petitioner deposits a sum of Rs.2,00,000/- within a period of six(6) weeks from today(04.03.2026). No order as to costs.

04-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Note: Issue order copy by 06.03.2026.

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K.KUMARESH BABU, J.

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To

The X Assistant Judge,
XII Assistant City Civil Court (FAC),
Chennai.

CRP No. 2410 of 2022

Dated : 04-03-2026