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C.R.P.No.73 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.73 of 2026

and

C.M.P.No.222 of 2026

E.Ravi

... Petitioner

VS.

1.Sukhil Raja

2.Akhil Joyel Raja

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this civil revision petition and set aside the order and decretal order passed in I.A.No.1 of 2025 in O.S.No.176 of 2024 dated 11.11.2025 passed by the learned Subordinate Judge at Alandur.

For Petitioner : Mr.K.Karuppaiyamooppanar

For Respondents : Mr.A.R.Sakthivel



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ORDER

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The Civil Revision Petition is filed challenging the condition imposed by the Subordinate Judge, Alandur in I.A.No.1 of 2025 in O.S.No.176 of 2024, dated 11.11.2025 while allowing the application filed by the petitioner seeking to set aside the *exparte* order passed against him on 21.11.2024.

2. The respondents herein filed a suit against the petitioner seeking recovery of possession. The respondents also sought for a decree directing the petitioner to pay a sum of Rs.2,27,000/- towards arrears of rent from April-2020 to June-2024. It is the case of the respondents that the petitioner was inducted as a tenant in the suit property and he committed default in payment of the rent.

3. Owing to non-appearance of the petitioner, he was set *exparte* on 21.11.2024 and the suit was proceeded. In these circumstances, the instant application in I.A.No.1 of 2025 has been filed by the petitioner seeking to set aside the *exparte* order. It was the specific case of the petitioner that the suit summon was not served on him and the observation made by the Trial Court that he refused to receive summon was not correct.



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4. In the impugned order, the Trial Court recorded that when Process Server attempted to serve suit summons, the petitioner refused to receive it after acquiring knowledge about the contents of the same. Therefore, this Court called for original returned summons from the Trial Court.

5. A perusal of the returned summons would indicate that Process Server in his endorsement dated 09.10.2024 had stated that when he attempted to serve the suit summons on the petitioner, he refused to receive the same, after seeing the contents. It is further stated that the petitioner also did not permit the Process Server to affix the court summons.

6. Based on the endorsement of the Process Server, the Trial Court in the impugned order observed that the suit summons were refused by the petitioner. The endorsement of the Process Server dated 09.10.2024 in the returned summons do not indicate the names of the persons, who identified the defendant. The return endorsement of the Process Server has not been counter signed by any of the witnesses. It is also further seen that the Trial Court has not examined the Process Server on oath as required under Rule 19 of Order 5 of the Code of Civil Procedure.



7. Since the procedure contemplated under Order V Rules 17 and 19 of the Code of Civil Procedure have not been properly followed, this Court feels there is some irregularity in serving the suit summons. In such circumstances, an opportunity shall be given to the petitioner to conduct the suit on merits. Therefore, I agree with the conclusion reached by the Trial Court in allowing the application filed by the petitioner. However, the condition imposed by the Trial Court is onerous one. By impugned order, the petitioner has been directed to deposit a sum of Rs.2,27,000/-, which was claimed by the respondents as arrears of rent.

8. The learned counsel appearing for the petitioner submits that as on today there is an arrears of only Rs.30,000/-. Since there is a controversy with regard to the quantum of arrears, this Court feels the condition impugned by the Trial Court directing the petitioner to pay a sum of Rs.2,27,000/- as a condition for allowing the application is onerous and the said condition is modified by directing the petitioner to deposit a sum Rs.50,000/- to the credit of O.S.No.176 of 2024 on the file of the Subordinate Court, Alandur, within a period of six weeks from the date of receipt of copy of this order.



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9. The condition imposed in Paragraph No.5 (a) of the impugned order alone is modified as indicated above. With regard to the other condition directing the petitioner to pay future rent at the rate of Rs.6,000/- on or before 5th of every succeeding month is concerned, the same is confirmed. In case, the petitioner failed to comply with the conditions within the time stipulated, the I.A.No.1 of 2025 shall stand automatically dismissed without further reference to this Court.

10. With the above modification, the Civil Revision Petition is disposed of. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.02.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Subordinate Judge,
Alandur.



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S.SOUNTHAR, J.

dm

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