

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Thursday, the 11th day of December 2025.

I.A.No.5 and 6 of 2025

In

O.S. NO.33 of 2025

1. S.Selvaraj (dead)
2. S.Dhayas Raj
3. S.Selvarani
4. S.Crispin raj
5. Febsilin Joshua
6. Moslin Esther

..... Petitioners/Defendants 1 to 4, 7 & 8

Versus

C.Selvaraj

..... Respondent/Plaintiff

These petitions came up before me for final hearing on 09.12.2025 in the presence of Mr.N.R.Rangarajan, Learned counsel for the Petitioners and Mr.E.Prabu, Learned counsel for the Respondent. Upon hearing both sides, on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

COMMON ORDER

1. **IA.5 of 2025** : This petition has been filed under Section 151 of Civil Procedure Code to set aside the order dated 12.11.2025 of closure the evidence of PW1 and reopen the evidence of PW1.
2. **IA.6 of 2025** : This petition has been filed under Order 18 Rule 17 and Section 151 of Civil Procedure Code which was closed at 12.11.2025 to recall the PW1 for further cross examination by the advocate for the petitioners.
3. **Brief averments of the affidavit filed by the petitioners are as follows:**
 - 3.1. The petitioners herein are the defendants in the suit. The first petitioner, late S.Selvaraj, is the petitioner's father. The third petitioner, Selvarani, is the petitioner's

mother. They are the children of the petitioner's other brother, late S.Kins Raj. In this case, PW1 was being cross-examined by the defendant's counsel. Normally, the case is taken up for such cross-examination during the afternoon session, as the advocate completes work in other civil courts and continues the cross-examination in this case after lunch. The case was posted for continuation of cross-examination of PW1 on 07.11.2025. On that date, the cross-examination of PW1 started at 3.43 p.m. and went on until 4.22 p.m., and the further cross-examination was posted to 10.11.2025. On 10.11.2025, the petitioners' advocate, who was ready to cross-examine PW1 on a major portion, was present in this Court at 2.30 p.m., and he was informed that this Hon'ble Court was in a meeting of all judges regarding the delay in filing Advocate Commissioner's reports and other issues, and that the case would be taken up as soon as the meeting concluded. However, until 5.30 p.m., the meeting had not concluded.

3.2. The case was then posted to 11.11.2025 for further cross-examination of PW1. The counsel for the defendants had a medical appointment at Palghat already scheduled for 12.11.2025 and 13.11.2025, for which he had to start on the night of 11.10.2025 and return to Chennai on the morning of 14.11.2025. Therefore, on 11.10.2025, after completing his work at the Gummidipoondi District Munsif Court, the advocate rushed to this Court at 1.00 p.m., hoping to proceed with and complete a major portion of the cross-examination of PW1. To his surprise, the petitioner's counsel was informed that the case had been adjourned to 12.11.2025 for further cross-examination of PW1. The advocate then informed this Court about his already-scheduled medical treatment and that he could attend Court only on 14.11.2025. If the learned District Munsif had expressed that she was not inclined to adjourn the case from 12.11.2025 and that the cross-examination should proceed, the advocate would have cancelled his trip and continued with the cross-examination of PW1. To his great surprise and distress, the advocate for the petitioners came to know that despite the representation made by the junior advocate, Mr. Sathish, the evidence of PW1 was closed on 12.11.2025, and the case was posted to 14.11.2025 for examination of further witnesses. The cross-examination of PW1 on many important aspects is still pending. The petitioners' advocate could not be present on 12.11.2025, which resulted

in the closure of PW1's evidence. If the closure of PW1's evidence is not set aside, and if PW1 is not recalled for further cross-examination, the petitioners will suffer irreparable loss, damage, and injury. Hence, this petition.

4. Brief averments of the counter filed by the respondent/plaintiff are as follows:

4.1. The respondents submit that at every hearing when the matter was listed for cross-examination of PW1, directions were issued to the defendants' counsel to cross-examine and complete the process. However, the defendants' counsel openly refused to cross-examine the witness and insisted that he required two whole days for the cross-examination of PW1. The respondents state that the present petition is not maintainable in law or on facts. The eviction suit filed by the respondent was posted for trial, and PW1's proof affidavit was filed on 04.08.2025, with the petitioner-side exhibits marked on 05.08.2025. The case was posted for cross-examination on 07.08.2025. From 07.08.2025 to 12.11.2025, the matter was listed for nearly 47 hearings, during which PW1 was present from morning to evening on almost all days in the hope that the cross-examination would be completed. However, due to the deliberate refusal by the defendants' counsel to proceed with the cross-examination, no meaningful progress occurred, despite the direction of the Hon'ble High Court in CRP No. 2713 of 2022 dated 29.08.2022 to complete the trial within six months.

4.2. The defendants' counsel repeatedly cited one reason or another to avoid cross-examining PW1 and insisted that he could not be compelled to do so, asserting that the High Court's direction was not binding on him and that the High Court had no jurisdiction to impose such a time frame. PW1, who suffers from health issues, was made to wait from 10.30 a.m. on each hearing, with the matter passed over multiple times. Adjournments were repeatedly sought by the defendants' junior counsel, and when the Court declined to adjourn, the defendants' counsel would appear after 4.30 p.m. and still refuse to continue the cross-examination. Even when forced to begin, he put irrelevant questions unrelated to the issues and then abruptly stopped, again seeking adjournments. The allegation that the case was normally taken up only after lunch is denied, as the defendants' counsel regularly failed to appear until after 4.30 p.m.,

causing undue delay. Despite having given undertakings to complete the cross on 26.09.2025 and 06.10.2025, he failed to comply and openly declared that he would not allow the case to be disposed of in accordance with the High Court's direction.

4.3. On 07.11.2025, after the Court warned of closure of PW1's evidence, the defendants' counsel put a few irrelevant questions only to avoid closure and sought adjournment to 10.11.2025. On 10.11.2025, the case was again passed over, and the counsel appeared only at 4.30 p.m. By then, the Presiding Officer had gone to attend a meeting at 3.30 p.m., which continued until 5.30 p.m., resulting in the matter being posted to the next day. The respondents deny all allegations to the contrary. On 11.11.2025, PW1 was present, and the matter was passed over and called several times, but the defendants' counsel did not appear and sought another adjournment, stating that he was in the Gummidipoondi District Court. The matter was adjourned to 12.11.2025 for cross-examination as "NFA." The allegation that the counsel rushed to Court on 11.11.2025 is denied. It is also denied that he informed the Court about medical treatment fixed till 14.11.2025 or that the Judge indicated approval. From 07.08.2025 to 12.11.2025, despite more than 47 postings for cross-examination and despite repeated memos filed seeking directions to complete the cross, the defendants' counsel continued to refuse and succeeded in delaying the matter.

4.4. The respondents submit that the conduct of the defendants amounts to gross contempt of the orders of the Hon'ble High Court in CRP No. 2713 of 2022. Nearly three years have passed since the High Court directed expeditious disposal. The suit is only for eviction, and the landlord-tenant relationship is admitted in paragraph 19 of the written statement. Nevertheless, the defendants' counsel repeatedly represented in open court that he would not allow the case to be completed for another decade, contending that the High Court's direction was illegal and not binding. He even produced a judgment of the Hon'ble Supreme Court claiming that time-bound directions should not be imposed, and therefore the High Court's order should be ignored. In view of the mala fide and abusive conduct of the defendants, they are not entitled to seek reopening of PW1's evidence.

4.5. The respondent, being a businessman, has incurred a financial loss of Rs.10,00,000 due to completely abandoning his business to attend Court for the past four months in an effort to complete the cross-examination of PW1. The defendants' actions in prolonging the cross-examination have caused the respondent severe mental agony and harassment, requiring his presence daily from morning to evening, which has adversely affected his health. Therefore, the present petitions are liable to be dismissed with exemplary costs.

5. Evidence :

Neither the petitioners nor the respondent have placed any oral or documentary evidence before this court.

6. Point for determination :

Whether this petition can be allowed or not.

7. Discussion and findings :

7.1. Heard. Records have been perused. The petitioners herein are the defendants in the suit. Having carefully considered the averments of the petition and the detailed objections placed by the respondents, as well as the entire sequence of events reflected in the docket proceedings, this Court is required to examine the matter in light of the factual matrix and the binding directions issued by the Hon'ble High Court. The record unmistakably establishes that the cross-examination of PW1 was posted on numerous occasions extending over several months, during which the witness remained present from morning till evening on almost all hearing dates. It is also evident from the adjudication recorded in the suit that the Court had, on every such occasion, repeatedly directed the defendants' counsel to commence and complete the cross-examination of PW1, particularly in view of the explicit time-bound direction issued by the Hon'ble High Court in CRP No. 2713 of 2022. In spite of such directions, there was persistent reluctance on the part of the defendants' counsel to proceed with the cross-examination, and the proceedings disclose that adjournments were neither encouraged nor granted as a matter of indulgence, but

became unavoidable solely on account of the conduct of the defendants' side. Therefore, the allegation of the petitioners that this Court had failed to afford adequate opportunity is wholly contrary to the record.

7.2. Equally, the plea of the petitioners that the closure of PW1's evidence on 12.11.2025 was without opportunity cannot be accepted in light of the prolonged history of the case. The Court had granted more than adequate opportunities extending over several months. The High Court's specific direction to dispose of the suit within the prescribed period was repeatedly brought to the attention of the defendants' counsel. Nevertheless, while the closure of PW1's evidence on 12.11.2025 was justified on facts, the ends of justice require that an opportunity be granted strictly to prevent any allegation of prejudice, particularly since the petitioners have now expressed readiness to proceed without further delay.

7.3. In view of the above factual appreciation and the binding nature of the High Court's order, and considering that the cross-examination of PW1 pertains to substantive issues in the suit, this Court is inclined to exercise discretion in favour of recalling PW1 solely to ensure that the adjudication of the suit is complete, fair, and uninfluenced by any technical considerations. Moreover, it is pertinent to record that the present suit was originally instituted before the Tiruvottiyur Court, where it was numbered as 298 of 2014, and, upon transfer, has been renumbered as O.S. No.33 of 2025 before this court. Nearly a decade has elapsed since the initiation of the proceedings. The suit itself seeks the relief of recovery of possession. These circumstances must necessarily be borne in mind to ensure effective disposal of the matter in accordance with the mandate of law. However, having regard to the conduct of the defendants' counsel in delaying the proceedings, and in order to uphold the authority of the High Court's direction mandating expeditious disposal, this Court deems it appropriate to issue a directive to both counsels that they shall cooperate fully with the speedy completion of trial and shall not seek any further accommodation except on circumstances beyond control. Accordingly, in the interests of justice, in order to avoid multiplicity of proceedings, this petition is allowed on the following conditions.

8. Result :

IA.5 of 2025 : In the result, this petition is allowed on following conditions:-

- (i) The petitioners/defendants shall pay costs of Rs.500/- to the respondent/plaintiff on or before 16.12.2025.
- (ii) The petitioners shall cross examine PW1 on next hearing date i.e. 17.12.2025, subject to appearance of PW1.

On failure to adhere, the above conditions, this petition shall stand automatically dismissed without any further orders. For reporting compliance call on 17.12.2025.

IA.6 of 2025 : In the result, this petition is allowed on following conditions:-

- (i) The petitioners/defendants shall pay costs of Rs.500/- to the respondent/plaintiff on or before 16.12.2025.
- (ii) The petitioners shall cross examine PW1 on next date of hearing i.e. 17.12.2025, subject to appearance of PW1.

On failure to adhere, the above conditions, this petition shall stand automatically dismissed without any further orders. For reporting compliance call on 17.12.2025.

Dictated to the steno-typist, directly typed by her in the desktop, corrected and pronounced by me in the open Court on this the 11th day of December 2025.

District Munsif,
Ponneri.

Both side witnesses and documents:- NIL

District Munsif,
Ponneri.

Common Fair/ Draft Order
I.A.No.5 & 6/2025
O.S.No.33/2025
Date: 11.12.2025
DMC, PNI.