



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2177 of 2021

Saranya

... Petitioner/Respondent/Plaintiff

Vs

1.Nallammal

2.Rajamani

... Respondents/Petitioners/Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 23.08.2021 made in I.A.No.4 of 2021 in O.S.No.106 of 2008 on the file of the District Munsif Court, Paramathi, Namakkal District by allowing the above Civil Revision Petition.

For Petitioner : Mr.K.Sadhanathan.
For M/s.M.Saravanakumar

For Respondents : Mr.Suresh Babu

O R D E R

This Petition is filed challenging the order passed in I.A.No.4 of 2021 in O.S.No.106 of 2008 on the file of the District Munsif Court, Paramathi, Namakkal District on 23.08.2021.

2.The Learned Counsel for the Petitioner submitted that the Suit was filed by the Petitioner against the Respondents for the relief of injunction. Examination of witnesses in this case was over and the case was pending for arguments. Then, the Respondents filed the Petition under Order 18 Rule 17 and Section 151 of Civil Procedure Code for recalling the PW1 for the purpose of further cross examination.

3.This Petition was opposed by the Petitioner. However, without considering the opposition made by the Petitioner, the Learned District Munsif, Paramathi allowed the Petition.



Challenging the said order, this Civil Revision Petition is preferred.

4.The Learned Counsel for the Respondents submitted that the Respondents filed Petition for earlier disposal of this case and a direction was issued by this Court on 22.10.2021 for disposing the case within a period of three months from the date of receipt of a copy of this order.

5.Considered the rival submissions of the Learned Counsel for the Petitioner and the Respondents and perused the records.

6.It is seen from the order of the Learned District Munsif, Paramathi that after the examination of Plaintiff and Defendants, the attestors of the Will have been examined. In the said circumstances, the Court found that it is necessary to give an opportunity to the Respondents/Defendants to question PW1 and in this view of the matter, allowed the recall Petition. PW1 is sought to be cross examined further to clarify certain discrepancies in the evidence of attestors. If the parties are not given opportunity before the Trial Court for presenting their case, it would seriously prejudice them.

7.In this view of the matter, this Court finds no reason to interfere with the order of the Learned District Munsif, Paramathi. Hence, the order of the Learned District Munsif, Paramathi passed in I.A.No.4 of 2021 is confirmed. The Learned District Munsif, Paramathi is directed to fix a date for the purpose of cross examination of PW1 and on that date witnesses of the parties must be present and cross examination of PW1 should be completed. Then the Learned District Munsif, Paramathi is directed to dispose the case as directed by this Court in C.R.P.No.2272 of 2021.

8.Accordingly, this Civil Revision Petition is disposed of. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

The District Munsif,
Paramathi.
Namakkal District.

+1cc to Mr.S.Senthil Vadivelan, Advocate, S.R.No.56554

C.R.P.No.2177 of 2021

VBM(CO)
SU(08/11/2021)