



C.R.P.No.3535 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3535 of 2022
and C.M.P.No.18797 of 2022

Suganya

.. Petitioner

Vs.

1. Pradeep Kumar
2. S.Parimaladevi
3. A.Krishnaveni
4. K.Vidhya

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order and decretal order dated 13.09.2022 passed in Interlocutory Application No.4 of 2022 in O.S.No.22 of 2017, pending on the files of the District Judge, Karaikal.

For Petitioner : Mr.R.S.Diwaagar

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the respondent/plaintiff to recall and re-examine D.W.1 and D.W.6.



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2. The first respondent herein is the plaintiff in the suit. He filed a suit for partition claiming 1/4th share in the suit property. In the affidavit filed in support of the petition to recall D.W.1 and D.W.6., it was stated that recording of evidence and cross examination were already over and the matter was posted for arguments. The petitioner in his affidavit had stated that with regard to bank transaction for purchasing the property, he wanted to cross examine D.W.1 and D.W.6.

3. A perusal of materials available on record and typed set of papers would suggest that the Interlocutory Application to recall D.W.1 and D.W.6 was taken up for hearing on 07.09.2022, notice was given to the petitioner herein and for the purpose of filing counter, it was adjourned to 13.09.2022. On 13.09.2022, when the matter was taken up for hearing, there was no representation for the respondents. The Court below allowed the petition filed under Order XVII, Rule 17 C.P.C. after recording the fact that the petitioner herein was absent. However, in the impugned order, the Court below has not given any reason for allowing the application.

4. A perusal of the affidavit filed in support of the petition to recall D.W.1 and D.W.6 would suggest that the first respondent herein wants to cross



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examine the D.W.1 and D.W.6 with regard to new documents now found by the respondents. Since the suit is for partition, in the interest of justice, this Court feels that an opportunity should be given to the first respondent to further cross examine D.W.1 and D.W.6 and it would not cause any prejudice to the revision petitioner. Therefore, this Court is not inclined to interfere with the order passed by the Court below. However, taking into consideration that the matter was posted for arguments, the Court below is directed to complete the further cross examination of D.W.1 and D.W.6 within a period of four (4) weeks from the date of receipt of a copy of this order.

5. With these observations, the Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No

Internet : Yes / No

To

The District Court, Karaikal.



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S.SOUNTHAR, J.

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