



Crl.O.P No.27043 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **07.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.27043 of 2022
and Crl.M.P.No.16623 of 2022

P.Bhuvaneswari

... Petitioner

Vs.

N.Vasantha

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to set aside the order in C.M.P.No.646 of 2022 dated 03.10.2022 passed by Special Court for exclusive Trial of Land Grabbing Cases, Salem.

For Petitioner : Mr. B.Sundarapandiyan

ORDER

This petition is filed to set aside the order in C.M.P.No.646 of 2022 dated 03.10.2022 passed by Special Court for exclusive Trial of Land Grabbing Cases, Salem.



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2. The petitioner is the accused in the case given by the respondent / *de facto* complainant for the offence under Section 138 Negotiable Instruments Act. The respondent had filed a petition under Section 311 Cr.P.C. to recall P.W.1 for further chief examination. The learned Special Judicial Magistrate, Special Court for exclusive Trial of Land Grabbing Cases, Salem, has allowed the said petition. Aggrieved over that the present Criminal Original Petition has been filed.

3. The learned counsel for the petitioner submitted that despite the examination of witnesses is over and the case is posted for arguments, the respondent had filed a petition to re-call herself and examine further; similar petition has already been filed by the respondent and now this petition has been filed just to fill up the lacuna; hence the order passed by the learned Judicial Magistrate, Special Court for exclusive Trial of Land Grabbing Cases, Salem, in C.M.P. No.646 of 2022 is liable to be set aside.

4. Since the matter has been posted for arguments and the respondent had filed the petition at the time of the arguments, the petitioner suspects that by recalling P.W.1, it cannot be presumed that the object is just to fill



up the lacuna. The learned Judicial Magistrate, Special Court for exclusive Trial of Land Grabbing Cases, Salem, has rightly allowed the petition. It is up to the petitioner to object if P.W.1 states anything in order to fill up the lacuna or cross-examine her on the above said line. The respondent is at liberty to cross-examine the witness on the day when she is presented for further examination.

5. Since the complaint is of the year 2018, the learned Judicial Magistrate, Special Court for exclusive Trial of Land Grabbing Cases, Salem, shall dispose of the case as early as possible after fixing a particular date for further examination of P.W.1.

6. With the above observation, this Criminal Original Petition is disposed. Consequently connected miscellaneous petition is closed.

07.11.2022

Index : Yes/No
Speaking Order : Yes / No

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R.N.MANJULA, J.,

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To:

The Special Judge,
Special Court for exclusive Trial of Land Grabbing Cases,
Salem.

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