



CRP(PD)(MD)No.1953 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1953 of 2022

and

C.M.P.(MD)No.8970 of 2022

1. K.Seenivasan
2. S.Kumar
3. S.Shesathiri
4. S.Rengasamy

... Petitioners

versus

K.Muthukumar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 04.08.2022 made in I.A.No.6 of 2022 in O.S.No.9 of 2013 on the file of the learned Additional District Judge, Additional District Court, Sivagangai.

For Petitioners : Mr.K.Guhan

For Respondent : Mr.P.T.S.Narendra Vasan
for M/s.K.Periasamy



CRP(PD)(MD)No.1953 of 2022

ORDER

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This Civil Revision Petition is filed against the fair and decreetal order dated 04.08.2022 passed in I.A.No.6 of 2022 in O.S.No.9 of 2013 by the learned Additional District Judge, Additional District Court, Sivagangai.

2. The petitioners herein are defendants in O.S.No.9 of 2013. They filed the above interlocutory application in I.A.No.6 of 2022 in O.S.No.9 of 2013 under Order 26 Rules 2 and 3 r/w. 151 C.P.C. to appoint an Advocate Commissioner to record the deposition of 2nd defendant at his house. The trial Court, by order dated 04.08.2022, dismissed the said application on the ground that the the second defendant has not produced any medical record to prove his ailments. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner submits that



CRP(PD)(MD)No.1953 of 2022

the second defendant is a chronic diabetic patient and also diagnosed to have Charcots Arthropathy of hind foot and ankle left side. The Doctors have also advised him not to stand for long duration and not to walk for a long distance. He has also produced a certificate issued by a reputed hospital, namely, Ganga Medical Centre and Hospitals Pvt. Ltd., Coimbatore, dated 30.03.2022.

4. The learned counsel for the respondent submits that the certificate produced by the second defendant is not a genuine one and he has not placed this certificate before the trial Court, when the application was decided by the trial Court in the month of August 2022. However, he submits that if the second defendant appears before the trial Court on a particular day, the plaintiff is prepared to cross examine him on the same day, without taking any further adjournment.

5. Though the learned counsel for the respondents raised a plea that the certificate produced by the second defendant is not a genuine



CRP(PD)(MD)No.1953 of 2022

one, this Court is not inclined to probe into the certificate as to whether it is genuine or not. However, considering the fact that the second defendant is having certain aliments and he cannot stand for a long time, this Court is inclined to dispose of the Civil Revision Petition with the following directions:

The second defendant shall appear before the trial Court on 10.10.2022. On that day, the trial Court shall examine him in chief as well as cross. During the trial proceedings, the trial Court shall permit him to sit in a chair and give evidence. The plaintiff shall cross examine him on the same day itself.

6. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2022

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Note : Issue order copy on or
before 29.09.2022



CRP(PD)(MD)No.1953 of 2022

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To

1. The learned Additional District Judge,
Additional District Court, Sivagangai.



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CRP(PD)(MD)No.1953 of 2022

B.PUGALENDHI, J.

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CRP(PD)(MD)No.1953 of 2022

27.09.2022