



CRP (MD) No.2090 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP (MD) No.2090 of 2022

and

CMP (MD) No.9607 of 202

Pattalammal ... Petitioner

Vs

1.Karuppasamy

2.Varalakshmi ... Respondents

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and decreetal order passed by the learned Additional District Munsif Court, Sankarankovil in IA.No.6 of 202 in OS.No.31 of 2017 dated 06.09.022 and set aside the same.

For Petitioner : Mr.K.Navaneetharaja

For Respondents : Mr.R.Rajasekar

ORDER

This civil revision petition is filed as against the fair and decreetal order passed by the learned Additional District Munsif Court, Sankarankovil in IA.No.6 of 202 in OS.No.31 of 2017 dated 06.09.022 and set aside the same.



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2. The petitioner has filed a suit in OS.No.31 of 2017 for declaration and for recovery of possession. The respondents remained *ex-parte* in the said suit and subsequently, *ex-parte* order was set aside. Now this application is filed to strike off the evidence of the petitioner / plaintiff and to permit her husband to adduce evidence on her behalf on the ground that she is aged about 66 years and is suffering with tuberculosis and grade II Diabetes. The said application was dismissed by the trial Court. Aggrieved over the same the present civil revision petition is filed.

3. The learned Counsel for the petitioner submits that the petitioner/ plaintiff was examined in chief on 23.12.2020 and through her Ex.P1 to Ex.P7 were marked and the suit was posted for cross examination. However, despite her appearance before the trial Court, the respondents without cross examining her by getting adjournments dragging on the suit. The petitioner is taking treatment for tuberculosis and diabetes. Therefore the present application to strike off her evidence and to permit her



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husband to adduce evidence on her behalf is filed.

The trial Court dismissed the said application.

4.The learned Counsel for the petitioner submits that though the petitioner has challenged the said order, she is now ready to appear before the trial Court, subjecting herself for cross examination, provided, the respondents shall cross examine her on a particular day, due to her health condition.

5.Heard the learned Counsel on either side and perused the material placed on record.

6.Though the petitioner has challenged the order dismissing her application for striking off her evidence and for permitting her husband to adduce evidence on her behalf, during the course of arguments, the petitioner has confined the prayer as above.

7.In view of the limited prayer, this civil revision petition is disposed with a direction to the petitioner to appear before the particular day fixed as by the trial



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Court, subjecting herself for cross examination and the respondents shall cross examine her on that particular day and if the respondents fail to cross examine her on that particular day, the suit will be proceeded further as no cross examination by the respondents. Accordingly, the trial Court shall fix a particular day in consultation with the respondents and the petitioner for her cross examination and proceed with further. No costs. Consequently connected miscellaneous petition stands closed.

17.11.2022

dsk

To

The Additional District Munsif,
Sankarankovil.



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B. PUGALENDHI, J.

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