



CRP No.1042 of 2023
and CMP.No.7471 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE Dr.JUSTICE **D.NAGARJUN**

CRP No.1042 of 2023

and

CMP.No.7471 of 2023

K.Balakumar

... Petitioner

-Vs-

1. M.S.Shanmugam

2. Krishnaswamy

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 23.02.2023 passed in EA.No.8 of 2023 in EA.No.2 of 2021 in EP.No.539 of 2018.

For Petitioner : Mr.L.Gavaskar

For Respondents : Mr.Rajasekar

ORDER

This Civil Revision Petition is directed against the order dated 23.02.2023 passed in EA.No.8 of 2023 in EA.No.2 of 2021 in EP.No.539 of



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2018 pending on the file of the XI Small Causes Court, Chennai, wherein, an application filed by the petitioner seeking setting aside the dismissal of EA.No.2 of 2021 was not considered.

2. It is submitted by the learned counsel for the revision petitioner that on 18.12.2002 as the petitioner's sister met with an accident, the petitioner could not produce witness before the Court as directed. It is also submitted by the learned counsel that the petitioner now ready to produce two witnesses in E.A.No.2 of 2021 filed under Section 47 petition and thereby sought for restoring the same. Learned counsel for the respondent submitted that even after taking number of adjournments evidence is not being produced by petitioner in EA.No.2 of 2021 and on account of which disposal of EP.No.539 of 2018 could not be proceeded with.

3. The Trial Court while dismissing the application in EA.No.8 of 2023, has observed that the petitioner has not been producing the witnesses and dragging on the matter on one reason or the other. Taking into consideration the submissions made by both the counsel for the petitioner



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and the respondents and also on going through the records dated 23.02.2023, while setting aside the orders passed in E.A.No.8 of 2023, this Court is hereby directs the revision petitioner to produce two witnesses within two weeks from the date of receipt of a copy of this order and on such production of both witnesses, the learned counsel for the respondents would go ahead with the cross examination and on completion of the same, the respondents can also produce witnesses, if any on his behalf and finally, the Trial Court is directed to dispose of the petition under Section 47 of CPC in EA.No.2 of 2021 in EP.No.539 of 2018 as expeditiously as possible.

4. With the above observations, this Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, connected CMP is also closed.

18.04.2023

kmi

To

1. The XI Small Causes Court,
Chennai.



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Dr.D.NAGARJUN, J.

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