



CRP.Nos.824 & 823 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.Nos.824 & 823 of 2023 and
CMP.No.6269 of 2023

CRP.No.824 of 2023

M.Dhivya

... Petitioner

Vs.

S.Vinoth Kannan

... Respondent

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order dated 31.01.2023 made in IA.No.2 of 2022 in HMOP.No.840 of 2018 passed by the learned Subordinate Judge, Tambaram by allowing the civil revision petition.

For Petitioner : Mr.N.Malidoss

CRP.No.823 of 2023

M.Dhivya

... Petitioner

Vs.

S.Vinoth Kannan

... Respondent

PRAYER:



CRP.Nos.824 & 823 of 2023

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order dated 31.01.2023 made in IA.No.1 of 2022 in HMOP.No.840 of 2018 passed by the learned Subordinate Judge, Tambaram by allowing the civil revision petition.

For Petitioner : Mr.N.Malidoss

COMMON ORDER

Challenging the orders dated 31.01.2023 passed in IA.Nos.1 & 2 of 2022 in HMOP.No.840 of 2018 by the learned Subordinate Judge, Tambaram, these revisions are preferred.

2. The above applications were filed by the revision petitioner / respondent in HMOP.No.840 of 2018 filed by the husband for divorce, wherein she filed objection. Now the case is posted for trial and after closing of evidences, necessity arose for her to reopen and recall PW1 in order to elicit certain answer from the mouth of PW1 with regard to counter statement in DVC.No.3 of 2019 filed by him, with regard to return of articles as well as the suit filed by the husband for recovery of car. Hence, she filed those applications, but the same were dismissed by the trial court stating that to fill



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up omissions and lacuna, she is not entitled to reopen and recall the matter.

Accordingly, the applications were dismissed. Challenging the same, the present revisions are preferred.

3. The learned counsel for the petitioner submits that immediately after cross examination of PW1, necessity arose for the wife / revision petitioner to mark certain documents with regard to earlier proceedings arose between the parties. In the meanwhile, PW2 evidence was examined and closed. Immediately after that, she filed application to recall PW1, but the trial judge dismissed the same stating that to fill up lacuna such application was filed.

4. But on seeing the fact that PW1 and PW2 were examined and as wife she wants to mark certain documents which are related to the earlier proceedings between the petitioner and the respondent herein, which are vital documents and the petitioner is the right party to depose about those documents. Hence, she filed the applications as such they are maintainable, because entire trial proceedings was not closed. Therefore, the petitioner herein being wife should be given opportunity to examine PW1 before the trial



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court. If not opportunity given, her right to defend the case will be defeated.

Therefore, the findings of the trial Judge is set aside and the applications in IA.Nos.1 & 2 of 2022 are allowed. The petitioner is directed to cooperate for the proceedings and the trial judge is directed to dispose of the HMOP.No.840 of 2018 within a period of four months from the date of receipt of this order.

5. With the above direction, both the civil revision petitions are disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.04.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.

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To
The learned Subordinate Judge,
Tambaram

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