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CRP.Nos.1073 & 1068 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM:

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

CRP.Nos.1073 & 1068 of 2023 and
CMP.Nos.7677 & 7683 of 2023

CRP.No.1073 of 2023

N.Vijayalakshmi

... Petitioner

Vs.

V.Rama

... Respondent

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 23.03.2023 passed in IA.No.5 of 2023 in OS.No.7011 of 2022 on the file of the XIX Assistant City Civil Court, Chennai.

For Petitioner : Mr.L.Ramkumar

CRP.No.1068 of 2023

N.Vijayalakshmi

... Petitioner

Vs.

V.Rama

... Respondent

PRAYER:



CRP.Nos.1073 & 1068 of 2023

Civil Revision petition is filed under Article 227 of the Constitution of

India to set aside the fair and decretal order dated 23.03.2023 passed in IA.No.4 of 2023 in OS.No.7011 of 2022 on the file of the XIX Assistant City Civil Court, Chennai.

For Petitioner : Mr.L.Ramkumar

COMMON ORDER

Challenging the impugned orders dated 23.03.2023 passed in IA.Nos.4 & 5 of 2023 in OS.No.7011 of 2022 on the file of the XIX Assistant City Civil Court, Chennai, the plaintiff preferred this revision.

2. The learned counsel for the revision petitioner submits that the petitioner filed the said suit for recovery of money. Though it was filed as summary suit, but subsequently, leave was granted to the defendant and it became original suit. The case was posted for examination of herself on 01.03.2023 and posted for cross examination on 07.03.2023. She appeared before the witness box. As she felt discomfort, she was unable to answer the questions put forth by the defendant and also became unwell. So some



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ambiguity arose in cross examination. Thereafter, she clarified herself and for that she wants to reopen her evidence by filing applications to reopen and recall herself in order to adduce further evidence on her side. The said applications were dismissed by the trial Judge stating that it is summary procedure and there is no ambiguity and evidence of PW1 not necessary.

3. But on seeing the fact, it reveals that in the year 2022, she filed suit for recovery of money and unconditional leave was also granted to the defendant to defend the case. On the side of the plaintiff, she was examined as PW1. Now she wants to recall herself to put forth certain evidence before the trial court. The trial Judge simply closed the same, since because it is a summary procedure. But before the trial court, parties concerned to the suit are entitled to adduce evidence. If no opportunity given to her, her valuable right to defend her will be defeated since because she is aged about 47 years old lady, having felt discomfort, she attended the court proceedings. Normally it would happen. Therefore, the trial Judge ought to have given opportunity to reopen and recall.

4. Considering the above, findings of the trial Judge is set aside and



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IA.Nos.4 & 5 of 2023 are allowed. The trial judge is directed to dispose of the suit within a period of three months from the date of receipt of this order. Since the direction is to the court, notice to the respondent is ordered to be dispensed with.

5. With the above direction, both the civil revision petitions are disposed of. Consequently, connected miscellaneous petitions are 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
XIX Assistant City Civil Court, Chennai.

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