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C.R.P.Nos.1522 and 1523 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.Nos.1522 and 1523 of 2023

and

C.M.P.No.10019 of 2023

1.S.Rajkumar

2.S.Varadharajan

..Petitioners in both the CRPs

Vs.

1.N.S.Ziauddin

2.S.Mani

..Respondents in both the CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal orders dated 10.03.2023 and 13.04.2023 made in I.A.No5 of 2023 and I.A.Sr.No.3400 of 2023 in O.S.No.20 of 2016 respectively on the file of the learned I Additional District Court at Namakkal.

For Petitioners : Mr.T.L.Thirumalaisamy

For Respondents : Mr.K.Sankararaman



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COMMON ORDER

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These Civil Revision Petitions are filed questioning the orders passed in I.A.No.5 of 2023 and I.A.Sr.No.3400 of 2023 in O.S.No.20 of 2016 dated 10.03.2023 and 13.04.2023 respectively on the file of the learned I Additional District Court, Namakkal.

2. It is submitted by the learned counsel for the petitioners that the petitioners have filed application for recalling of PW1 and same was allowed on payment of costs to be paid on or before the specified date, but the costs could not be paid on the date when it was directed to be paid. The petitioners have filed application under Section 148 of the Code of Civil Procedure for extension of time for payment of costs. The said petition was dismissed and ultimately the application for recalling PW1 was also dismissed.

3. The learned counsel for the respondents have submitted that the petitioners were never interested in proceeding with the case and number of adjournments have been taken for cross-examination of the witness, therefore the learned trial Court has rightly dismissed the



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applications.

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4. Since the trial Court has allowed the petition to recall PW1 on payment of costs and subsequently dismissed the same for default in payment of costs, this Court is of the opinion that the delay in depositing the costs can be rectified by giving on more opportunity to the petitioner.

5. In the circumstances, these Civil Revision Petitions are allowed, on condition of payment of costs of Rs.6,000/- to the respondents on or before 30.06.2023, on such payment of costs, once petition is allowed the petitioners are directed to complete the cross-examination of PW1 at once and the trial Court is directed not to entertain adjournments so far as the cross-examination of PW1 is concerned. No costs. Consequently, the connected miscellaneous petition is closed.

14.06.2023

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Index : Yes/No

Note:- Issue order copy by 21.06.2023



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Dr.D.NAGARJUN, J.

dsa

To:-

The I Additional District Judge,
Namakkal.

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14.06.2023