



CRP.Nos. 1915 & 1916 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM:

**THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN**

C.R.P.Nos. 1915 & 1916 of 2023

and

CMP.No. 12153 of 2023

Kanchana Giridharan

.. Petitioner  
[in both CRPs]

Versus

1.Meena Shanmugam  
2.Geetha Arivazhagan  
3.Suseela (Died)

...Respondents  
[in both CRPs]

***Common Prayer:***

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 21.03.2023 made in I.A.Nos. 3 & 4 of 2022 in O.S.No. 2326 of 2020 on the file of V Additional City Civil Court, Chennai.

For Petitioner : **Mr.C.T. Mohan**  
(in both CRPs) For V.G. Suresh Kumar

For Respondents : Mr.S. Samuel Raja Pandian  
(in both CRPs)

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**COMMON ORDER**

**WEB COPY** These Civil Revision Petitions have been filed to set aside the fair and decretal order dated 21.03.2023 passed in I.A.Nos. 3 & 4 of 2022 in O.S.No. 2326 of 2020 on the file of V Additional City Civil Court, Chennai, respectively.

2. The learned counsel for the revision petitioner/plaintiff submitted that the original suit filed by the petitioner/plaintiff for the relief of declaration and permanent injunction. Both side evidence was closed and the matter was posted for arguments. At this juncture, the above applications have been filed to reopen the case and recall DW2 for the production of the ration card issued to the witness and to permit the petitioner/plaintiff to adduce further evidence. If this Court grants one more opportunity to the petitioner/plaintiff to cross examine the DW2, the petitioner/plaintiff can prove her case, but the trial Court has refused to give an opportunity to the petitioner/plaintiff to cross examine the DW2. Hence, he prays to set aside the findings of the court below.





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and issues have also been framed. The contention of the

petitioner/plaintiff is that she had been examined as PW1 and a

Psychologist, was examined as PW2. The 2<sup>nd</sup> defendant was examined as

DW1 and one Loganathan was examined as DW2 to prove the alleged

proper and due execution of the settlement deeds, the certified copies of

which are marked as Ex.A1 to Ex.A3 in the suit. The said Loganathan is

stated to be the attesting witness to the deeds of settlement, which are

challenged in the suit. When he was asked whether he could produce his

family ration card, he admitted that he would do so and he stated in his

cross examination that he was holding a Green Ration Card which entitles

him to subsidy free ration. The plaintiff had obtained documents, namely

ration card issued to DW2 to show that in terms of the nature of the card

issued to DW2 who was working as a Manager, would not be entitled to

such a card and further he would not also be entitled to the benefit of the

free insurance under the Chief Minister's Health Insurance Scheme.

5. The contention of the respondents/defendants is that when the evidence of the petitioner/plaintiff was let in as PW1 no whisper has been made about the ration card and that the petitioner has also not filed any



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objection petitions in this regard, that all along the petitioner has kept quite till the evidence of the defendants and the petitioner has not applied any ration card for obtaining various benefits from the Government. The cross-examination of DW2's evidence was closed and the case was posted for arguments. Thereafter, the petitioner/plaintiff has filed the recall and reopen applications for further cross examination of DW2. But the trial Court dismissed both applications on the ground that no bonafide reason was assigned by the petitioner/plaintiff.

6. On a perusal of the order of the Court below, it reveals that DW2 has already been examined. Both applications have been filed by the petitioner/plaintiff to reopen and recall the case and permit the petitioner to adduce further evidence of DW2. The original suit filed by the petitioner/plaintiff is for the relief of declaration and permanent injunction. It is to be pointed out that Mr.Loganathan was examined as a witness on the side of the defendants as he had signed as a witness to the settlement deeds in question. In this case, the plaintiff's side evidence was closed. To prove her claim, the plaintiff was examined as PW1 and PW2 and then on the side of the defendants, DW1 and DW2 had been



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examined. It is also seen that if no opportunity was given to the petitioner/plaintiff, the petitioner will be put to irreparable loss and hardship. Furthermore, the petitioner/plaintiff has not taken any steps to cross examine the DW2 and then only, the trial Court had closed the evidence on the side of the defendants and both side evidence have been closed.

7. Though the trial Court dismissed the applications on the ground that no valid grounds have been made out, taking into consideration the relief sought for in the suit and in order to give one more opportunity to the petitioner/plaintiff to prove her case, in the interest of justice, this Court is inclined to dispose of the above Civil Revision Petitions by directing the trial Court to give an opportunity to the petitioner/plaintiff to reopen the case and recall DW2 for further crosss examination.

8. Accordingly, the Civil Revision Petitions are disposed of. The trial Court is directed to dispose of the suit in O.S.No. 2326 of 2020 pending on the file of V Additional City Civil Court, Chennai, as



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expeditiously as possible. There shall be no order as to costs.

Consequently, connected Miscellaneous Petition is closed.

**19.07.2023**

msm

Index : Yes/No

Speaking Order : Yes/No

To

1. The V Additional City Civil Court, Chennai.

2. The Section Officer, V.R.Section  
High Court, Madras.



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**V. BHAVANI SUBBAROYAN, J**

msm

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