



CRP. No. 2404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP Nos. 2404 & 2405 of 2023
&
CMP No. 15048 & 15050 of 2023

M.Sivakumar

...Petitioner in both petitions

Vs.

1.A.Palanisamy Gounder
Nachammal (died)
2.M.Sivasakthi

....Respondents in both petitions

PRAYER in CRP No.2404 of 2023 : This petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 20.03.2023 passed in IA No. 67 of 2023 in O.S No. 389 of 2010 on the file of the District Munsiff Court, Udumalpet.

PRAYER in CRP No.2405 of 2023 : This petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 20.03.2023 passed in IA No. 68 of 2023 in O.S No. 389 of 2010 on the file of the District Munsiff Court, Udumalpet.



CRP. No. 2404 of 2023

For Petitioner
in both petitions : Mr. Arul Gnana Prakash
For R1 : Mr.D.R.Arun Kumar
For R2 : Notice sent service awaited

COMMON ORDER

These petitions have been filed to set aside the fair and decreetal order dated 20.03.2023 passed in IA No. 67 & 68 of 2023 in O.S No. 389 of 2010 on the file of the District Munsiff Court, Udumalpet.

2. The petitions in I.A Nos. 67 & 68 of 2023 have been filed to reopen the evidence of plaintiff for recall of P.w.1 for cross examination. Considering the submissions on either side, the Court dismissed the above said petitions. Aggrieved over the same, the petitioner filed the present petitions.

3. The learned counsel for the petitioner submits that the first respondent was examined as P.w.1 and cross examined on 02.08.2019 and the evidence closed on 08.01.2020 and D.W.3 was examined and cross examined and during the cross some documents were marked on the side of the plaintiff/first respondent herein, hence with regard to the said documents the petitioner wants to cross examine the P.W.1 unless it put too much hardships to the petitioner but the Court below dismissed the petitions



CRP. No. 2404 of 2023

stating that the petitioner cannot be permitted to fill up the lacunae. Hence,

he prays to allow this petition.

4. The learned counsel for the respondent submits that the Court below rightly dismissed the petition which needs no interference.

5. Considering the facts of the case, admittedly Ex.A13 was brought on record only during cross examination of D.W.3. If the opportunity is not given to the petitioner to recall and cross examine P.W.1. It would cause irreparable loss to the petitioner. Hence, the Order passed by the Trial court in IA No. 67 & 68 of 2023 in O.S No. 389 of 2010 is set aside. Thus, I.A No. 67 & 68 of 2023 is allowed. Further, the Trial Court is directed to dispose of the O.S No. 389 of 2010 within a period of three months from the date of receipt of a copy of this order.

6. In result, these Civil Revision petitions are allowed. No Cost. Consequentially, Connected miscellaneous petitions are closed.

06.11.2023

pbl



WEB COPY



CRP. No. 2404 of 2023

T.V.THAMILSELVI,J.

Pb1

To

1. The District Munsiff Court, Udumalpet.

CRP No. 2404 & 2405 of 2023
& CMP Nos. 15048 & 15050 of 2023

06.11.2023