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C.R.P.No.2220 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 30.06.2023**

**CORAM:**

**THE HONOURABLE DR.JUSTICE D.NAGARJUN**

**C.R.P.No.2220 of 2023**

**and**

**C.M.P.No.13431 of 2023**

S.Soundarya

. . . Petitioner

Versus

1.Rukmani

2.P.Sumitradevi

3.P.Vadivel

4.N.Thangamalar

5.S.Shanthi

. . . Respondents

**PRAYER** : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order made in I.A.No.4 of 2023 in O.S.No.327 of 2017 dated 28.4.2023 on the file of the Principal District Judge, Tiruppur.

For Petitioner : Mr.V.Balamurugan

**ORDER**

Heard Mr.V.Balamurugan, learned counsel for the petitioner and perused the records.



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2. This civil revision petition is filed challenging the order dated 28.4.2023 passed in I.A.No.4 of 2023 in O.S.No.327 of 2017 on the file of the Principal District Court, Tiruppur.

3. It is submitted by the learned counsel for the petitioner that the first respondent/plaintiff has filed the suit against the petitioner and other defendants seeking partition of plaint schedule properties therein. When P.W.1 was to be cross examined by the petitioner/5<sup>th</sup> defendant, on account of inconvenience of the petitioner/5<sup>th</sup> defendant, as she was in advance stage of pregnancy, she sought for adjournment by filing I.A.No.4 of 2023, however, the said application came to be dismissed. Aggrieved by the same, the present revision petition is filed.

4. During the course of submissions, it is brought to the notice that subsequent to the dismissal of I.A.No.4 of 2023, the evidence P.W.1 was closed and P.W.2 is also in the witness box to be cross examined by the petitioner and other defendants. The petitioner could have filed the application to recall the evidence of P.W.1 setting forth her details and circumstances which she could not cross examine P.W.1. Instead of challenging that the petitioner approached



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this Court challenging the rejection of adjournment. Even if this petition is allowed the petitioner will have no right to cross examine P.W.1.

5. Considering the circumstances, this civil revision petition is disposed of, giving liberty to the petitioner to approach the trial Court and file an application for recall of P.W.1, on filing of such application, the trial Court is directed to consider the same sympathetically, taking into consideration the fact that the petitioner/fifth defendant was in advance stage of pregnancy. In case, if such application is filed for cross examination of P.W.1, the trial Court is also directed to expedite and dispose of the same as expeditiously as possible. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**30.06.2023**

Index: Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
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To  
The Principal District Judge,  
Tiruppur.



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**DR.D.NAGARJUN, J.,**  
ms

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