



C.R.P.No.2654 of 2023 &
C.M.P.No.16412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.2654 of 2023 &
C.M.P.No.16412 of 2023

1. V.R.N.Kamarajan
2. K.Dhanasekaran
3. K.Sureshu

... Petitioners

Vs.

1. Narasingapuram Extension Development,
Society No. 18/86, 6th Street,
Narasingapuram Guindy,
Chennai – 600 032
rep. By its President

2. The Sub Registrar,
Sub Registration Office,
Velacherry, Chennai – 600 042.

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to allow the present Petition and to set aside the order of the learned XV Assistant Judge, City Civil Court, Chennai in I.A.No.3 of 2023 in O.S.No.3528 of 2016 dated 01.07.2023 and permit the petitioners for continuation of cross examination of P.W.1.

For Petitioners : Mr. NA.Malaisaravanan



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For Respondents : Mr.A.S.Narasimhan

ORDER

The present Civil Revision Petition is filed to set aside the order of the learned XV Assistant Judge, City Civil Court, Chennai in I.A.No.3 of 2023 in O.S.No.3528 of 2016 dated 01.07.2023 and permit the petitioners for continuation of cross examination of P.W.1.

2. The brief facts of the case is that the petitioners are the defendants and the 1st respondent is the plaintiff in O.S.No.3528 of 2016. The said suit was filed for declaration that the settlement deed dated 10.04.2014 bearing document no.2452/2014 on the file of the 2nd respondent / 4th defendant executed by the 1st petitioner / 1st defendant in favour of petitioners 2 and 3 / defendants 2 and 3 as null and void and to grant permanent injunction. Pending suit, the petitioners have preferred I.A.No.3 of 2023 to recall P.W.1 for continuation of cross examination of P.W.1 and the said application was dismissed. As against the same, the petitioners have preferred the present petition.

3. The learned counsel for the petitioners would submit that after a long



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time, the 1st respondent / plaintiff filed his proof affidavit and the case was posted for cross examination of P.W.1. Further, the trial court failed to consider the fact that on 08.06.2023, the petitioners / defendants partly cross examined the P.W.1, the petitioners' side sought for further cross examination of P.W.1, but without considering the same, the trial court dismissed the petition filed by the petitioners / defendants citing the reason that the P.W.1 was extensively cross examined by the petitioners and the petitioners have not filed any proper application seeking adjournment, which is illegal and liable to be set aside.

4. The learned counsel for the petitioners also submits that it is highly just and necessary to recall P.W.1 for further cross examination, otherwise, the petitioners will be put to irreparable loss and hardship, thereby pleaded to allow the present petition.

5. On the other hand, the learned counsel for the respondents submits that even though opportunity was given to the learned counsel for the petitioners to complete the cross examination of P.W.1, the petitioners' side have not chosen to avail the said opportunity. Further, the learned counsel for the respondents submits that they have no serious objection for allowing the



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petition, however, time frame has already been filed by this Court in the earlier Civil Revision Petition, wherein a direction was issued to the court below to dispose of the suit in O.S.No.3528 of 2016 on 08.08.2023.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. It is the contention on the side of the petitioners that on 08.06.2023, the petitioners have partly cross examined P.W.1 and sought time to further cross-examine P.W.1, however without considering the genuine request of the petitioners, on the same day trial court closed the evidence. On the other side, the respondents contend that chief examination of P.W.1 was completed in the year 2017 and P.W.1 was cross examined on 08.06.2023. Since the suit is of the year 2016, this Court on an earlier occasion directed the trial court to dispose of the suit on or before 08.08.2023.

8. It is to be noted that the court below in the order dated 01.07.2023 had observed that it is the duty of the parties and their counsels to complete the cross examination on the same date and if the petitioners were not ready to cross examine on a particular date, they ought to have filed a proper



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application for adjournment and the petitioner failed to do so, thereby dismissed the I.A.No.3 of 2023.

9. Considering the fact that there is no serious objection on the side of the respondents for cross examining P.W.1 by the petitioners and taking note of the fact that though this Court, on earlier occasion, directed the court below to dispose of the suit in O.S.No.3528 of 2016 on or before 08.08.2023, at present, this Court is of the considered opinion that petitioners shall be given only one chance to cross examine P.W.1.

10. Since it is submitted by the learned counsel on either side that the suit is posted for hearing on 05.08.2023, the petitioners shall cross examine P.W.1 on the said date without fail and it is made clear that P.W.1, will be available for cross examination only on that date and thereafter, petitioners / defendants' side chief and cross examination shall be completed on the same date [or] on the next hearing dates, which is convenient to the court below. Further, the trial court shall not grant more than two days for the argument of the case, in any event, the suit shall be disposed of on or before 31.08.2023.



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It is made clear that no further extension of time shall be granted on any score. The learned counsel for the petitioners shall pay a sum of Rs.2,000/- [Rupees Two thousand only] to Mr.A.S.Narasimhan, learned counsel for the respondents on or before 05.08.2023.

In view of the above, the present Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

27.07.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order

ssd

To

1. The XV Assistant Judge,
City Civil Court, Chennai
2. Narasingapuram Extension Development,
Society No. 18/86, 6th Street,
Narasingapuram Guindy,
Chennai – 600 032
rep. By its President
3. The Sub Registrar,

6/8



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Sub Registration Office,
Velacherry, Chennai – 600 042

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V.BHAVANI SUBBAROYAN, J.,

ssd

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