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A.Nos.3778 and 4971 of 2022

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in
C.S(Comm.Div).No.24 of 2021

C.SARAVANAN, J.

The plaintiff's witness has been examined and thereafter D6 has been examined as D.W.1. The D.W.1 was last examined on 26.10.2022. Thereafter, the case could not been taken up for hearing before the learned Additional Master - III, for concluding the Trial. It appears that the D.W.1 had to returned back to the USA on account of medical conditions of his wife who is supposed to be suffering from auto immune anomalies/medical conditions and was required to undergo surgery.

2.The application in A.No.4971 of 202 has been filed to permit the D.W.1 to tender rest of the evidence through Video Conferencing.

3.The application is opposed by the respondent/plaintiff on the ground that there is a risk of witness being tutored. On the other hand, the learned counsel for the applicant/defendant submits that there is no scope for tutoring the witness, as the witness will be available through Video Conferencing and that the counsel for the applicant/defendant are only in



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India. A reference is made to provisions of the Madras High Court Video Conferencing in Court Rules, 2020 framed under Article 225 and 227 (2)(b) of the Constitution of India read with other provisions. A specific reference is made to Rule 7 which deals with examination of witnesses/persons through video conferencing. It is submitted that the apprehension expressed by the respondent/plaintiff that the defendant's witness may be tutored appears to be unfounded and fore-fledged.

4.Considering the fact that witness is located in USA and is willing to depose evidence from USA and considering the fact that the counsel who have been briefed by the appellant/defendant are in India, in my view, there is no scope for tutoring the said witness. In my view, no prejudice will be caused, if the witness is allowed to depose evidence through Video Conferencing as the entire proceeding will be recorded and signature of the witness is required to affix his evidence in accordance with the provisions of the Madras High Court Video Conferencing in Court Rules, 2020.



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5. Under these circumstances, I am inclined to allow these applications filed by the defendant for completion of the cross examination of D.W.1 (6th defendant) in the suit through Video Conferencing and to continue the cross examination of DW1.

6. Both the counsel on record have agreed to complete the cross examination of DW1/6th defendant before the learned Additional Master – III, through video conferencing and agreed to bring the DW1/6th defendant on 24.01.2023 and 25.01.2023 through video conference to complete the cross examination.

7. The case is therefore directed to list before the learned Additional Master – III for recording evidence and completion of cross examination of D.W.1 on the following dates :-

Dates		Events
24.01.2023	and	For completion of cross examination of D.W.1
25.01.2023		



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8. Registry is directed to ensure that the recording of evidence is seamlessly recorded/video graphed and to ensure that the video graph of the proceeding is preserved and available for the Court to view the same during final hearing, in case, the plaintiff raises complaint regarding tutoring of witness.

03.01.2023

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