



C.R.P. Nos.3803 & 3806 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3803 & 3806 of 2023
and
C.M.P. Nos. 23596 & 23607 of 2023

P.R.Rajendran

... Petitioner in
both C.R.P.s

Vs

C.P.Jakachirpian (deceased)

- 1 Vijayalakshmi J.
- 2 Nandhini J.
- 3 Jayanvanthi J.
- 4 Vedika P.J. (Minor 16 years)
rep.by 1st respondent mother

... Respondents in
both C.R.P.s

PRAYER in C.R.P.No. 3803 of 2023 : Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.6 of 2023 in O.S.No.4626 of 2016 dated 01.08.2023, on the file of XV Asst. City Civil Court, Chennai.



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PRAYER in C.R.P.No. 3806 of 2023 : Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.5 of 2023 in O.S.No.4626 of 2016 dated 01.08.2023, on the file of XV Asst. City Civil Court, Chennai.

For Petitioner in
both C.R.P.s : Ms.S.S.Jhothivani,

COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.6 and 5 of 2023 in O.S.No. 4626 of 2016 passed by the learned XV Asst. City Civil Court, Chennai, the revision petitioner/defendant preferred these Civil Revision Petitions.

2. Since the relief claimed challenging the impugned orders passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner/defendant filed the applications in I.A.Nos.5 and 6 of 2023 to reopen and recall and permit him



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to give evidence as D.W.1. Both the applications were dismissed by the trial judge stating that proper reason was not assigned by him for the delay and the same were highly belated one, since because the suit was filed in the year of 2016 and the case is pending for more than 7 years. So, those applications cannot be used as routine manner. Accordingly, the said applications were dismissed. Challenging the said findings, the defendant filed these Civil Revision Petitions.

4. The learned counsel for Revision Petitioner would submit that the suit in O.S.No.4626 of 2016 was filed by the plaintiff before the trial court for the relief of recovery of money against him and when the case is posted for D.W.1 cross-examination, on that day, he was not able to attend the court, since because his Aunty was passed away, so, he went to her funeral. The non-appearance on that day is neither willful nor negligent. Hence, he filed the said applications, but without considering his submissions, the trial judge dismissed those applications. Aggrieved over the same, he filed these Civil Revision Petitions and prayed to set aside the findings of the trial judge.



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5. Admittedly, the suit was filed in the year of 2016, but during trial, he was not cross-examined nor he gave evidence. If opportunity is not given to him, his valuable right to defend the case will be defeated. Furthermore, immediately after filing of the suit, he filed his written statement. Therefore, in order to give opportunity to the defendant, this court is inclined to set aside the findings of the trial judge in I.A.Nos.5 and 6 of 2023 in O.S.No. 4626 of 2016. Accordingly, these Civil Revision Petitions are allowed and both the applications are ordered to be allowed. The trial judge is directed to permit the Revision Petitioner to adduce evidence and mark documents, if any and dispose the case by giving opportunity to the other side as per manner known to law as early as possible. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

XV Asst. Judge,

City Civil Court, Chennai.

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T.V.THAMILSELVI, J.

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