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C.R.P.No.3494 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

C.R.P.No.3494 of 2023
and C.M.P.No.21751 of 2023

1.S.Murugan

Vice President and Chairman
Adhoc Committee,
Madras Society for the Protection and
Care of Animals
No.34/67, Vepery High Road,
Vepery, Chennai – 600 007.

2.Madras Society for the Protection and
Care of Animals,
Represented by its President,
No.34/67, Vepery High Road,
Vepery, Chennai – 600 007.

3.M.E.Duraipandian,
Executive Secretary,
Madras Society for the Protection and
Care of Animals
No.34/67, Vepery High Road,
Vepery, Chennai – 600 007.

... Petitioners

Vs.

K.Dhanalakshmi

... Respondent

PRAYER:-Civil Revision Petition filed under Article 227 of the Constitution of India against fair and decreetal order dated 27.01.2023 passed in I.A.No.1



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of 2022 in O.S.No.3259 of 2018 by the VII Assistant City Civil Court, Chennai, dated 18.08.2023.

For Petitioner : Mr. S.Selvaraj

ORDER

This Civil Revision Petition has been filed to set aside the order, dated 18.08.2023 made in I.A.No.1 of 2022 in O.S.No.3259 of 2018, by the VII Additional City Civil Court, Chennai.

2. The respondent, who is the plaintiff in the suit, had filed the suit to declare the suspension order dated 18.06.2018 issued by the Executive Secretary vide Proceeding No.3101/2018-C9/OCS/2018-19-1 as null and void, for permanent injunction and for costs. The respondent was appointed as a Manager in the respondent's office and her appointment was regularised by virtue of Office proceedings dated 17.08.2009. While that being so, on 01.03.2013, an Office Order has been issued by the Honorary Secretary to keep all the files and documents of the Society under safe custody. The Society in its proceedings of the meeting of an emergency executive Committee for the period 2015-18 held on 19.02.2018 has resolved to appoint an ad-hoc Committee under the Chairmanship of President and 5 other members. As per the Office Order, dated 01.03.2013, instructing the plaintiff to keep all the files and Documents under the plaintiff's custody. The plaintiff refused to hand over



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the keys to the respondents. Therefore, the respondent was suspended from service. After the suspension of the respondent, a full-fledged enquiry was conducted over the charges of the respondent. After enquiry, the services of the respondent was terminated and the termination order was also intimated to the respondent.

3. After marking of documents, trial was conducted. At this juncture, the defendants filed an application in I.A.No.1 of 2022 in O.S.No.3259 of 2018 to re-call the P.W.1 for further cross-examination by the petitioners/defendants. The suit was posted for continuation of cross-examination on many occasions, since certain clarification was required from the Society and thereafter, the learned counsel felt sick and the suit was posted on 07.11.2022 finally for cross-examination. Due to the health ailments, the learned counsel was not able to cross-examine P.W.1 on the said date.

4. A counter was filed by the respondent/plaintiff who had stated that the case records in O.S.No.3259 of 2018 has been sent to Ad-hoc Court for recording of P.W.1 cross-examination and further evidence. Since, 31.08.2021 to 07.11.2022 the case was kept pending with a sole intention of dragging on the matter and to frustrate the respondent, the petitioners have



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come forward with the present application and only to divert the core issue the petitioners had filed the present petition. There is no valid reason and the same has to be dismissed.

5. The trial Court on considering the said plea of both the sides have come to an conclusion that the main suit is filed to declare the suspension order dated 18.06.2018 issued by the Executive Secretary vide Proceeding No.3101/2018-C9/OCS/2018-19-1 as null and void and for permanent injunction. The second defendant's allegation is that after marking of documents, trial was conducted, only after that the defendants had filed an application in I.A.No.1 of 2022 in O.S.No.3259 of 2018 to re-call the P.W.1 for further cross-examination by the petitioners/defendants. Though many adjournments were granted from 31.08.2021 to 07.11.2022, the petitioner, only with an intention to drag on the matter have filed the application and hence, the Application was dismissed by order dated 18.08.2023. Aggrieved by the order passed by the trial Court the petitioner has come forward with the present Civil Revision Petition.

6. In the present Civil Revision Petition, it is seen that, though the trial Court had adjourned the matter on various dates from from 31.08.2021 to



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07.11.2022, the learned counsel for the petitioner was only present for some occasions. It is seen from the records that P.W.1 was absent on some hearings.

Considering the facts and circumstances of the case, this Court is of the view that one more opportunity may be given to the petitioners to cross-examine P.W.1. on the following directions:-

(i) On a condition that the petitioners shall pay cost of Rs.10,000/- to the Adyar Cancer Institute, Chennai within a period of two weeks from the date of receipt of a copy of this order.

(ii) On payment of such costs, the learned trial Judge is directed to fix a particular date for cross-examination of P.W.1. and,

(iii) The learned counsel for the petitioners is directed to complete the cross-examination of P.W.1 on the same day.

6. With the above directions, this Civil Revision Petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

22.09.2023

Index: Yes/No
Speaking Order/Non Speaking Order
gba



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WEB COPY

To

The VII Assistant City Civil Court,
Chennai.

V.BHAVANI SUBBAROYAN., J.

gba

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and C.M.P.No.21751 of 2023

22.09.2023