



CRP No.3895 & 3898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.3895 & 3898 of 2023
and
C.M.P. Nos. 24034 of 2023 & 24041 of 2023

B.Nagalakshmi

... Petitioner in both CRPs

Versus

1.S.N.Bhuvaneswari
2.S.Varalakshmi
3.S.Nagaraj
S.Samivel (Deceased)
4.S.Triveni
5.Sujatha
6.Ramya
7.Sakthivel

...Respondents in both CRPs

Civil Revision Petition filed Under Article 227 of Constitution of India,
praying to set aside the order and decree passed in I.A.Nos.6 & 7 of 2022,
respectively in O.S.No.13777 of 2010 dated 04.08.2023 on the file of the II
Additional City Civil Court, Chennai.

For Petitioner : Mrs. S.Selvakumari



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ORDER

WEB COPY The petitioner has filed this revision petition to set aside the order and decree passed in I.A.Nos.6 & 7 of 2022 in O.S.No.13777 of 2010 dated 04.08.2023 on the file of the II Additional City Civil Court, Chennai.

2. Heard, Mrs.S.Selvakumari, learned counsel for the petitioner and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the petitioner / 3rd defendant has filed an application to re-open and recall D.W.1 & D.W.2 to cross examine, for the reason that they were set ex-parte in the year 2018. Thereafter, the applications were allowed in the year 2022, hence, necessity arose to cross-examine D.W.1 & D.W.2 and their evidence was closed. Further, the petitioner filed an applications to reopen and to cross examine D.W.1 & 2, that applications were dismissed by the learned trial Judge, holding that the evidence of D.W.1 was opened in the year 2019 and D.W.2 was cross-examined by other defendants on 19.02.2021, but the 3rd defendant has not taken any steps to cross-examine them. Therefore, the reason assigned by him is not justifiable, in spite of the opportunity given to her, she has not utilized the same and accordingly the applications were closed.



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4. Before the trial Court, the plaintiff has filed a suit for partition in the year 1999, thereafter the suit was transferred and the present number was assigned. For morethan 23 years, the case is pending, but the revision petitioner / defendant remained ex-parte and the ex-parte order was set aside in the year 2022. The evidence of D.W.1 and D.W.2 were closed in the year 2021. So, if opportunity is not given to cross-examine D.W.1 & 2, his valuable right will be defeated. Therefore, two weeks time is granted to the revision petitioner to cross-examine D.W.1 and D.W.2, from the date of receipt of a copy of this order.

5. Accordingly, the Civil Revision Petitions are allowed and the findings given by the learned II Additional City Civil Judge, Chennai in I.A.Nos.6 & 7 of 2022, respectively in O.S.No.13777 of 2010 dated 04.08.2023 is hereby set aside.

6. Hence, I.A. is ordered and the parties are directed to co-operate for the proceedings. After cross-examination, the trial Court is directed to dispose of the case within a period of two months from the date of receipt of a copy of this order and liberty also granted to the defendant to adduce evidence.

T.V.THAMILSELVI, J.



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WEB COPY 7. Accordingly, this Civil Revision Petition is allowed. Consequently,
connected miscellaneous petitions are closed. No costs.

07.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No
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To

1. The II Additional City Civil Judge, Chennai.
- 2.The Section Officer,
VR-Section, High Court of Madras.

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