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C.R.P. No. 3537 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :.27.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3537 of 2023

and

C.M.P.No.22126 of 2023

Mrs. Ezhil

...Petitioner

.Vs.

1. Mrs. Ragini
2. Bapli
3. Sheebasanthi
4. Mrs. Jansi
5. Barath
6. Omana
7. M.S. Yuganandham
8. Velankanni
9. Khousalya
10. Gopal



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11. The Sub Registrar,
Virugambakkam SRO,
Chennai - 92

..Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.4 of 2023 in O.S.No.245 of 2008 on the file of the Subordinate Judge, Poonamallee, Thiruvallur District dated 04.09.2023 and to direct the learned Subordinate Judge, Poonamallee to take the rejected application and decide the matter on merits.

For Petitioner : Mr.S. Ramachandran

ORDER

This petition is filed seeking a direction to set aside the order passed in I.A.No.4 of 2023 in O.S.No.245 of 2008 on the file of the Subordinate Judge, Poonamallee, Thiruvallur District dated 04.09.2023 and to direct the learned Subordinate Judge, Poonamallee to take the rejected application and decide the matter on merits.



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2. The facts of the case is that the petitioner herein has filed

I.A.No. 4 of 2023 under Section 151 of CPC praying to re-open DW1 for the purpose of further cross examination which was closed on 21.08.2023 and the same was dismissed vide order dated 08.09.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that cross examination of DW1 is necessary to pass Judgment in the suit, due to which the counsel for the petitioner before the Court below sought time for continuation of cross examination of DW1. He further submitted that when the matter was taken up for hearing on 21.08.2023, the counsel for the petitioner was not able to appear and cross examine the witness and the Court below closed the cross examination of DW-1 by D4.Hence, prays to allow this petition.

4. On a perusal of the records it is seen that the learned counsel appearing for the petitioner has appeared on all hearing dates and he sought time for continuation of cross continuation of DW1 by D4 and the same was not permitted by the learned Judge in O.S.No.241 of 2008, due to which he



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as filed I.A.No.4 of 2023 in O.S.No.245 of 2008 on the file of the Subordinate Judge, Poonamallee, Thiruvallur District to reopen DW1 for the purpose of further cross examination and the same was dismissed vide order dated 08.09.2023. This Court is of the view that the petitioner had denied opportunity in O.S as well as in the I.A for cross examination of DW1, hence one more opportunity may be granted for the petitioner to establish his case by way of allowing this petition.

5. In view of the above this petition is allowed and the order passed in I.A.No.4 of 2023 in O.S.No.245 of 2008 on the file of the Subordinate Judge, Poonamallee, Thiruvallur District dated 04.09.2023 is hereby set aside. No order as to costs. Consequently, the connected miscellaneous petition is closed.

27.09.2023

smn

Index : Yes/No

Internet: Yes/No



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To.

1. The Subordinate Judge, Poonamallee, Thiruvallur District
2. The Sub Registrar,
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V.BHAVANI SUBBAROYAN,J.
Smn

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