



CRP. No. 3561 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10. 2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3561 of 2023
& CMP No. 22281 of 2023

1.G.Boopathi
2.G.Jamuna Bhai
3.G.Gunasekaran
4.G.Sivaraj
5.G.Meenakshi sundaram
6.G.Gajaraj

...Petitioners

Vs.

1.G.Thulasingham
2.G.Thirumani

....Respondents

PRAYER : This petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 05.09.2022 passed in I.A No. 5 of 2022 in A.S No. 34 of 2015 passed by the learned I Additional District Judge, Thiruvallur.

For Petitioner : Mr.C.Umashankar
For R1, R2, R4 and R5 : Notice sent service awaited
For R3 : Mr.C.Rajan



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ORDER

Challenging the impugned order dated 05.09.2022 passed in I.A No. 5 of 2022 in A.S No. 34 of 2015 by the learned I Additional District Judge, Thiruvallur, the petitioners filed this petition.

2. The brief facts of the case is that the petitioners herein filed I.A No. 5 of 2022 in A.S No. 34 of 2015 to reopen CMP No. 4 of 2022 in A.S No. 34 of 2015 in order Mrs. Jayanthi the forensic expert who gave the expert opinion, to appear and let in oral evidence by submitting herself for cross examination with regard to the report dated 03.03.2022 submitted in document No. 212 of 2021 dated 03.03.2022 on the stipulated date at the expenses of the petitioners herein. After considering the submission on either side, the Court allowed the petition with cost of Rs. 10,000/- payable to the Tiruvallur District Mediation Centre on or before 19.09.2022, but the cost was not paid by the petitioners and the same was dismissed on 19.09.2022. Challenging the same, the petitioners filed this petition.

3. The learned counsel for the petitioners submit that the petitioners are economically poor persons. Further, on 24.08.2022, the petitioners' counsel was sick hence he was not able to cross examine forensic expert. If



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the opportunity is not given to the petitioners to issue summons to forensic expert to give oral evidence with regard to her report dated 03.03.2022, their valuable right to defend the case will be defeated. Hence, he prayed to allow this petition.

4. Heard both sides.

5. Considering the fact of the case, if the opportunity is not given to the petitioners to cross examine the forensic expert, it put too much hardships to the petitioners. Hence, this Court is inclined to set aside the order dated 05.09.2022 passed by the I Additional District Judge, Thiruvallur in I.A No. 5 of 2022 in A.S No. 34 of 2015. Further, the petitioners are directed to cross examine the forensic expert on paying batta, within a period of two weeks from the date of receipt of a copy of this order and the I Additional District Judge, Thiruvallur, is directed to dispose A.S No. 34 of 2015 as expeditiously as possible.

6. In result, this civil Revision petition is disposed of. No cost. Consequentially connected miscellaneous petition is closed.

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T.V.THAMILSELVI,J.

Pbl

To

1. The I Additional District Judge, Thiruvallur.

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