



C.R.P.No.3611 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No.3611 of 2022

and

C.M.P.No.19166 of 2022

Ganesh Balakrishnan Mudaliar @
Ganpatrao Balakrishna Mudaliar

.. Petitioner

Vs

1.S. Latha
2.M. Vijayalakshmi
3.M. Gowrishankar
4.M. Jayashree

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree made in I.A.No.1 of 2022 in O.S.No.269 of 2010 on the file of the Additional Subordinate Judge, Vellore, Vellore District dated 10.08.2022.

For Petitioner : Mr. K.A. Ravindran

For Respondents : Mr. Ajoy Kumar Gnanam, for R1 & R2
No Appearance for R3 & R4



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ORDER

This Civil Revision Petition has been filed challenging the impugned order passed in I.A.No.1 of 2022 in O.S.No.269 of 2010 on the file of the learned Additional Subordinate Judge, Vellore dated 10.08.2022. The plaintiff preferred this revision.

2. Before the trial Court, the plaintiff / petitioner filed an application to reopen and to examine witness on his side but the same was dismissed by the trial Judge stating that this petition has been filed only to drag on the proceedings.

3. Against the said order of dismissal dated 10.08.2022 made in I.A.No.1 of 2022 in O.S.No.269 of 2010, the present Civil Revision Petition is filed by petitioner.

4. Learned counsel for the revision petitioner submits that the plaintiff filed a suit in the year 2010 for declaration and delivery of vacant



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possession against the defendants. The said suit is contested by the defendants by filing written statement. PW.1 was examined. Thereafter, the evidence was closed and posted for the defendants' evidence. Immediately, he filed an application to reopen the evidence but the same was dismissed. The learned counsel for the revision petitioner further submits that the plaintiff is aged about 95 years old and he wants to adduce further evidence on his side but the same was not permitted by the trial Judge.

5. Learned counsel for the respondents / defendants submitted that an affidavit which was filed before the trial Court is not filed by the plaintiff but the same was filed by one Advocate Clerk, which itself shows that the plaintiff is not inclined to proceed with the matter in-person.

6. On perusal of the affidavit, it is true that the same was filed by one Advocate Clerk. Admittedly, the plaintiff is aged about 95 years old, so there may be a lot of health implications not to file affidavit in-person. However, the reasons assigned by the plaintiff is accepted. Therefore, this Court is inclined to give one more opportunity to the plaintiff / petitioner to



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adduce evidence on his side. Considering the age of the plaintiff / petitioner, the finding of the trial Judge is set aside and this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs. The plaintiff is permitted to adduce evidence and the liberty is given to the defendants to cross examine the witness. The trial Judge is directed to dispose the matter within a period of three months from the date of receipt of copy of this order.

17.10.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The Additional Subordinate Judge, Vellore, Vellore District.



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T.V.THAMILSELVI, J.

AT

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