



C.R.P.Nos.57 and 61 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

**CORAM
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.R.P. Nos.57 and 61 of 2023
and C.M.P.No.480 of 2023**

1. Alamelu Ammal
2. Mohana
3. P.Nagaraj
4. P.Mari
5. P.Thulasi
petitions

.. Petitioners in both

Vs

Rani @ Rani Ammal

...Respondent in both petitions

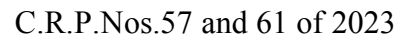
Common Prayer : Civil Revision Petitions filed under Article 227 of Constitution of India praying, to set aside the fair and decreetal order dated 31.03.2022 passed in I.A.Nos.1 & 2 of 2021 in O.S.No.180 of 2018 on the file of the Additional District Court, Kanchipuram at Chengalpet.

For Petitioners : M/s.J.T.Ajitha
(in both petitions)

For Respondent : Mr.V.B.Thirupathi kumar
(in both petitions)

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioners, challenging the impugned order passed by the Additional District Court,



2. The respondent/plaintiff has filed the suit in O.S.No.180 of 2018 on the file of the Additional District Court, Kanchipuram at Chengalpet for partition and other consequential reliefs.

3. During the pendency of the suit, PW1 was examined in chief but not cross examined by the petitioners . Therefore, the trial Court has closed the evidence of PW1 without cross examination of defendants. Further, the petitioners filed the applications in I.A.Nos.1 & 2 of 2021 seeking to re-open the plaintiff side evidence for cross examination of PW1 and recall PW1 for cross examination of witness. The trial Court had dismissed the said applications on the ground that several opportunities were given to the defendants to cross examine PW1 but was not cross examined.

4. The learned counsel for the revision petitioners submitted that due to COVID-19 pandemic, he was not able to cross examine PW1. However, evidence was closed. Hence, he prays to allow this petition.



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5. The learned counsel for the respondent submitted that PW1 was examined and the case was adjourned several times for the cross examination by the defendants counsel and the same was not cross examined PW1 and the trial Court had closed the evidence of PW1. He further submitted that this petition has been filed only to drag on the proceedings. Hence, he prays to dismiss this petition.

6. On perusal of the records, it reveals that on 21.02.2020 when the case was posted for cross examine of PW1 but was not cross examined for the reason that COVID-19 pandemic prevails. Therefore, if opportunity is not given to the petitioners to cross examine of PW1, the defence will be defeated. Therefore, the order passed by the Additional District Court, Kanchipuram, at Chennagalpet in I.A.Nos.1 and 2 of 2021 dated 31.03.2022 is hereby set aside. However, the defendants are directed to co-operate with the proceedings.

7. Accordingly, these Civil Revision Petitions are disposed of. Consequently, connected miscellaneous petition is closed. No costs.



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8. The trial Court is directed to dispose of the case in O.S.No.180 of 2018 within a period of six months from the date of receipt of a copy of this order.

08.03.2023

Internet : Yes/No
Index : Yes/No
msrm

To

The Additional District Court, Kanchipuram at Chengalpet.



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iT.V.THAMILSELVI, J.

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