



C.R.P.(MD)Nos.2902 & 2903 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)Nos.2902 & 2903 of 2023
and
C.M.P.(MD)No.15045 of 2023

M.Thajtheen

... Petitioner in both CRPs.

Vs.

Shakina Begum

... Respondent in both CRPs.

Common Prayer : This Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order made in I.A.Nos.697 & 698 of 2023 in O.S.No.201 of 2010 dated 08.09.2023 on the file of the District Munsif Court, Aranthangi.

For Petitioner : Mr.M.Suresh
(in both CRPs.)



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COMMON ORDER

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These civil revision petitions are directed against the orders passed in I.A.Nos.697 & 698 of 2023 dated 08.09.2023 on the file of the District Munsif Court, Aranthangi allowing petitions to reopen the case and recall DW.1 for cross examination on the side of the plaintiff.

2.The learned counsel appearing for the petitioner would submit that ex-parte decree came to be passed on 23.01.2012 and subsequently, execution petition was laid for execution of sale deed, that thereafter, ex-parte decree was set aside, that the first defendant has filed his proof affidavit on 10.03.2022 and since the first defendant was not present for cross-examination, the evidence was closed and that, when the case was posted for arguments, the above applications came to be filed. The learned trial Judge after considering the objection raised by the petitioner, allowed the applications by imposing costs. Though DW.1 was examined in chief, plaintiff is yet to cross-examine DW.1. The learned counsel appearing for the petitioner has relied upon the judgment of this Court in CRP.(PD) No.905 of 2018 dated 22.04.2021 and argued that the applications to reopen and recall at the end of the trial cannot be entertained.



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3.As already pointed out, the respondent/1st defendant has sought to recall himself, for subjecting himself to cross-examination by the revision petitioner/plaintiff side. The trial Court, by observing that the first defendant should be given an opportunity to adduce their side evidence, allowed the petition.

4.Considering the facts and circumstances of the case, the impugned order allowing the petitions cannot be found fault. At the same time, since the suit is pending from the year 2010, this Court is of the view that necessary direction should be issued to complete the trial within a stipulated time. Accordingly, the District Munsif Court, Aranthangi is directed to complete the cross-examination of DW.1, within a period of one week from the date of receipt of a copy of this order and complete the trial and dispose of the suit, within a period of four weeks, thereafter.

5.In the result, these civil revision petitions are dismissed. Consequently, connected miscellaneous petition is closed. No costs.

07.11.2023

Index :yes/No
Internet:yes/No
gns



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K.MURALI SHANKAR,J.

gns

To

The District Munsif Court,
Aranthangi.

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