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CRP.Nos.269 & 272 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 08.04.2024**

CORAM

**THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR**

**CRP.Nos.269 & 272 of 2024**  
**and CMP.No.1264 of 2024**

1.M.Rajendran  
2.R.Mukundan  
3.R.Sivakumar

... petitioners

Vs

1. M.Veera Raghavan  
2. V.Arun

...Respondents

**Common Prayer:** These Civil Revision Petition have been filed under Article 227 of Constitution of India against the fair and decreetal orer of Principal District Munsif, Tiruvallur in IA.Nos.6 and 7 of 2023 in OS.No.237 of 2013 respectively dated 18.10.2023.

For Petitioners : Mr.A.R.Suresh  
For Respondents : Mr.V.Varges Amal Raja

**COMMON ORDER**

The petitioners herein are the defendants in OS.No.237 of 2013 and the plaintiffs are brothers of the defendants.



CRP.Nos.269 & 272 of 2024

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2. The suit has been filed seeking permanent injunction for using the common passage between the plaintiffs and the defendants. IA.Nos.6 and 7 of 2023 have been filed to reopen and recall for further cross examination of PW1/plaintiff by the defendant which was dismissed for the reason the petitioner already cross examined PW1 for three days at length and thereafter PW2 examined and cross examined by the defendants. The reopen and recall petitions filed for the purpose of protracting the proceedings.

3. The suit is of the year 2013, the counsel for the petitioner submitted that the cross examination of PW1 is necessary since vital questions and certain documents had to be put forth and confronted with the witnesses which is necessary to prove the usage of common passage. The property has been bequeathed by way of a Will to both the first petitioner and the first defendant from their father.

4. The suit is for permanent injunction filed by the respondent



restraining the defendants/petitioners their men and their family members usage of common passage. During the pendency of the suit, the defendants/petitioners filed petitions for reopen and recall the further cross examination of PW1.

5. The learned counsel for the respondents submitted that he has serious objection for further cross examination, but if cross examination is completed in one day, without further delay, cross examination can be permitted with a condition. Further the learned counsel requested this Court to give a direction to the trial Court to complete the trial within a stipulated period of time since the suit is pending for more than 10years and the petitions are filed one after another to protract the trial.

6. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials available on record.

7. The respondents though have objections for further cross examining PW1 this Court is inclined to set aside the order passed by the trial Court on 18.10.2023 in IA.Nos.6 and 7 of 2023 in OS.No.237 of 2013,



CRP.Nos.269 & 272 of 2024

in the interest of justice, further it is a common passage dispute between the siblings.

8. In the result, both the civil revision petitions are allowed by setting aside the order dated 18.10.2023 made in IA.Nos.6 and 7 of 2023 in OS.No.237 of 2013. With a direction to the trial Court to fix a date for cross examination of PW1. The suit is of the year 2013, the trial Court is directed to dispose of the suit as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**08.04.2024**

tsh

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

To

The Principal District Munsif, Tiruvallur.



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CRP.Nos.269 & 272 of 2024

**M. NIRMAL KUMAR, J.**

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**CRP.Nos.269 & 272 of 2024**

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