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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.03.2024

PRONOUNCED ON : 05.09.2024

CORAM:

**THE HON'BLE MR.JUSTICE A.A.NAKKIRAN**

**A.No.596 of 2024 in C.S.No.1068 of 2009**

**ORDER**

This Application has been filed seeking to eschew the evidence of Mrs.Krishna Bacthavatchalu,- DW1 and pass orders accordingly.

2.The learned counsel for the applicant submits that Mrs.Krishna Bacthavatchalu was cross examined in part on various occasions on the side of the applicant but she was not cross examined by the respondent/plaintiff on several times. On certain occasions, she could not appear due to her health issues. While that being so, due to her health condition, she is not in a position to attend the cross-examination, moreso, the same is pending for a long time. In these circumstances, it is in the interest of justice and equity, it is necessary to eschew/close the evidence of



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DW1 and provide the applicant with an opportunity to depose evidence.

Thus, he seeks the relief as prayed for.

3. The learned counsel for the respondent/plaintiff submits that based on the Power of Attorney executed in favour of Mrs. Krishna Bacthavatchalu, she was examined as DWI and subsequently cross examined. Further, he submits that while major portion of evidence of DW1 is over, if the evidence is to be eschewed, it would cause irreparable loss, injury and prejudice to the other litigant. Hence, the application is not maintainable and the same is liable to be dismissed with exemplary costs.

4. Heard both sides and perused the material available on record.

5. On a perusal of the records, it is seen that D.W.1 was Chief examined and cross examined and documents were marked. Further, major portion of evidence of D.W.1 has been completed. The reasons stated in the application is not acceptable and it seems that the applicant intends to prolong the case. However, the applicant is at liberty to examin any other



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witness on his side for completion of entire proceedings. Hence, this application is liable to be dismissed.

6.The Master is directed to complete the entire proceedings within a period of three months.

7. In the result, the application is dismissed. No costs.

**05.09.2024**

Index : Yes/No

Speaking order:Yes/No

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**A.A.NAKKIRAN, J.**

lbm

**Pre-Delivery Orders in**  
**A.No.596 of 2024 in**  
**C.S.No.1068 of 2009**

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