



C.R.P.No.2204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2204 of 2024

and

C.M.P.No.11680 of 2024

1.V.Munuswamy

2.M.Thulasi

3.M.Anbzhagan

... Petitioners

Vs.

1.P.Geetha

2.M.Santhanam

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the order passed in I.A.No.4 of 2024 in O.S.No.1931 of 2011 dated 16.04.2024 on the file of III Assistant City Civil Court, Chennai.

For Petitioners : Mr.R.Naresh Kumar

ORDER

This Civil Revision Petition has been filed to set aside the order passed in I.A.No.4 of 2024 in O.S.No.1931 of 2011 dated 16.04.2024 on the file of III Assistant City Civil Court, Chennai.



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2.The petitioners/defendants 1, 2 & 4 in O.S.No.1931 of 2011 has filed I.A.No.4 of 2024 to re-open the evidence of D.Ws in O.S.No.1931 of 2011, which was closed on 14.03.2024. Initially, on 27.03.2024, I.A.No.4 of 2024 was allowed on two conditions. The first condition is, petitioners to pay a sum of Rs.2,000/- to the respondent/plaintiff on or before 06.04.2024 and the second condition is, petitioners to subject themselves for cross examination on 06.04.2024 and the case was adjourned to 06.04.2024 for reporting compliance. On 06.04.2024, the petitioners appeared and filed a compliance memo with regard to payment of Rs.2,000/- to the respondent and they were also ready for cross examination. Since the Presiding Officer was on Medical Leave, the case was adjourned to 16.04.2024. On 16.04.2024, the first petitioner's brother passed away at Thiruvallur and they had to attend his funeral. Hence, they filed a petition for adjournment in I.A.No.5 of 2024 on 16.04.2024 giving the above reason. The Lower Court finding that the petitioners failed to comply the second condition of subjecting themselves for cross examination, further, the petitioners were not



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ready to file an affidavit for extension of time and simply filed the petition for adjournment, dismissed I.A.No.5 of 2024 and also dismissed I.A.No.4 of 2024 for non-compliance of conditional order and posted the suit in O.S.No.1931 of 2011 to 23.04.2024.

3.In the meanwhile, the petitioner preferred the above revision before this Court. On 23.04.2024, the petitioners filed a memo informing the Court about the filing of the present Civil Revision Petition before this Court, which was recorded in the proceedings dated 23.04.2024. Thereafter for production of stay order if any, in the revision petition or for both side arguments, the case was adjourned to 05.06.2024. Thereafter, it now stands posted on 24.06.2024.

4.The learned counsel for petitioners undertakes that on 24.06.2024, the petitioners will appear before the trial Court and subject for cross examination.



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5.Considering the submissions made and on perusal of the material available on record, it is seen that the petitioners have complied with the order passed in I.A.No.4 of 2024, appeared before the trial Court on 06.04.2024 for cross examination. Since the Presiding Officer was on Medical Leave, cross examination not conducted. Thereafter the case was adjourned to 16.04.2024. On 16.04.2024, petitioners' brother passed away, had to attend the funeral. The reasons given by the petitioners seems to be reasonable and appropriate but the trial Court dismissed the adjournment petition, posted for arguments. In view of the petitioners' undertaking that they will appear before the trial Court on 24.06.2024 without fail and subject to cross examination, and the reason for not appearing on 16.04.2024 is acceptable, this Court is inclined to set aside the impugned order.

6.In view of the above, the impugned order passed in I.A.No.4 of 2024 in O.S.No.1931 of 2011 dated 16.04.2024 is set aside and the trial Court



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is directed to permit petitioners to be cross examined on appearance on 24.06.2024, after completion of cross examination, to further proceed with the case to its logical end.

7.The Civil Revision Petition is allowed, accordingly.

06.06.2024

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy on 10.06.2024

To

The III Assistant City Civil Court,
Chennai.



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M.NIRMAL KUMAR, J.

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