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C.R.P.No.3403 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.3403 of 2023
and
Civil Miscellaneous Petition No. 21117 of 2023

P. Latha

...

Petitioner

Vs

A. Vijaya Anand

...

Respondent

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to call for the records and set aside the order and decretal order dated 18.08.2023 passed in I.A.No.3 of 2023 in O.S.No.405 of 2018 on the file of the learned I Additional District Judge, Tirupur.

For Petitioner : Mr Ar.M.Arunachalam

For respondent : Mr.S.Shunmuga Raja
for M/s.Chennai Law Firm.

ORDER



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Challenging the order of dismissal passed by the learned I Additional District and Sessions Judge, Tiruppur in I.A.No.3 of 2023 in O.S.No.405 of 2018, dated 18.08.2023, the Civil Revision Petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner/plaintiff has filed a suit in O.S.No.405 of 2018 on the file of the I Additional District and Sessions Court, Tiruppur against the respondent/defendant for recovery of unpaid sale amount of Rs.25,00,000/- with interest based upon the registered sale deed dated 24.04.2017 executed by the respondent/defendant as per the oral agreement dated 16.02.2017. In that case, due to health condition, the petitioner was unable to go to Court to depose as a witness and hence, she had filed an application in I.A.No.3 of 2023 seeking to grant permission to examine her husband as a witness first and thereafter, examine her as a witness, and the Trial Court, having not satisfied with the medical grounds stated by the petitioner, dismissed the same by passing the impugned order, which is under challenge and seeks to allow the revision.

3. The learned counsel appearing for the respondent supported the



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impugned order and further submitted that the petitioner/plaintiff had expressed her willingness to examine her as 2nd witness on the next week after examination of her husband. If she is suffering from illness and not able to move, how can she come and depose evidence on the next week and the Trial Court rightly dismissed the petition and thus, seeks to dismiss the petition.

3. I have considered the matter in the submission of the learned counsel for the petitioner and the respondent perused the materials available on records carefully.

4. On perusal of the records, it reveals that the Trial Court by considering the fact that the petitioner/plaintiff had sought to grant permission to examine her as a witness after examination of her husband as a witness on her side on the ground of health condition, she has not submitted any material documents to prove the same and hence, the Trial Court rightly dismissed the petition. As rightly pointed out by the learned Trial Court, if the petitioner is not in a position to move from her house, she could be examined through an Advocate Commissioner. Therefore, this Court finds no infirmity or illegality



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in the order passed by the Trial Court and this Court finds no reason to interfere with the impugned order passed by the Trial Court and no merit in this revision and the same is liable to be dismissed.

5. Accordingly, this Civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is always open to the petitioner to examine any witness on her behalf of with regard to the transactions done by her.

05.01.2024

Index: yes/no
Internet:yes/no
mrp

To

The I Additional District and Sessions Judge
I Additional District and Sessions Judge,
Tiruppur.

V. SIVAGNANAM, J.

mrp



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