



C.R.P.(PD)No.4482 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

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G.R.Munirathinam (dead)

1.G.M.Boopalan

2.G.M.Loganathan

3.G.M.Kumar

(Cause title accepted vide court order
dated 30.10.2024 in CMP No.24236
of 2024 in CRP SR No.140978/2024)

Petitioners

Vs

A.H.Reality

a Partnership Firm

Rep by its Manager Administration,

T.Z.Fayaz Ahmed,

having Office at

Old D.No.829/1, New D.No.266,

Periyar E.V.R.High Road,

Kilpauk,

Chennai-600 010

.. Respondent



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreta order dated 27.08.2024 passed in I.A.No.3 of 2024 in O.S.No.234 of 2018 on the file of Sub Court, Gudiyatham, Vellore District.

For Petitioners : Mr.P.Santhosh

ORDER

The civil revision petition arises against the order passed by the learned Subordinate Judge, Gudiyatham in I.A.No.3 of 2024 in O.S.No.234 of 2018 dated 27.08.2024. The revision petitioners are the defendants 1 to 4 in the suit.

2. O.S.No.234 of 2018 has been presented for declaration and recovery of possession of “B” schedule mentioned property. The matter was listed for cross examination of P.W.1 on 11.06.2024. In the mean time, the plaintiff/respondent herein, who was suffering from Chronic Type II Respiratory failure, had to undergo treatment at Apollo Hospital for the said ailment. Pleading that he is not able to come to Court on account of the fact, he



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should always move with support of oxygen cylinder, he sought permission of the Court to proceed with his cross examination through an Advocate Commissioner. The said application came to be numbered as I.A.No.3 of 2024. After receipt of counter from the defendants/civil revision petitioners, the learned Judge allowed the petition. Hence this Civil Revision Petition.

3. Heard Mr.P.Santhosh for the revision petitioners.

4. Mr.Santhosh argues that no evidence has been let in by the respondent/plaintiff to show that he is suffering from the disease, for which, he had undergone treatment as on today. The certificates relate to the period January 2024 and the case is being heard in November 2024, he argues that the ailment should continue as on today for him to get the benefit of the order.

5. A perusal of the order shows that, the respondent/plaintiff has filed discharge summary issued by Apollo Hospitals. The certificate shows that the respondent/plaintiff is suffering from Chronic type II respiratory failure. The affidavit of the respondent/plaintiff further points out that the plaintiff has been



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advised not to leave his premises and he must always been on oxygen support.

Further, “chronic ailment” means it is a continuing one. Medical assessments are best left to professionals. Courts need not sit on jugments over such certificates.

6. It will be impossible for a person, who is in oxygen support to enter the witness box and give evidence. Suffering from respiratory problem, the plaintiff cannot be expected to be provided with oxygen support inside the court halls. If he were to appear before the Court with an oxygen cylinder, it would only create unnecessary drama and divert the cross examination instead of the purpose for which it is being conducted.

7. In any event, the learned Trial Judge has exercised his discretion and has imposed conditions in the impugned order. He has specifically stated during the course of recording, the civil revision petitioners/defendants have any issues, they can always approach the Court by way of filing a Memo and get clarifications.



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WEB COPY 8. In the light of the above discussions, I do not find any reason to interfere. The Civil Revision Petition is dismissed. The learned Advocate Commissioner is requested to expedite the execution of warrant and complete it within a period of one month from the date of receipt of a copy of this order.

No costs.

11.11.2024

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
sr

To

The Subordinate Judge, Gudiyatham



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V. LAKSHMINARAYANAN,J.

SR

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