



C.R.P.(MD)No.45 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.45 of 2024
and C.M.P.(MD).No.265 of 2024

Selvin Jeya Singh

... Petitioner/Defendant

Vs.

T.Karthikeyan

... Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Docket order dated 11.12.2023 made in O.S.No.59 of 2018 on the file of the Additional District Judge, Kanyakumari District at Nagercoil.

For Petitioner : Mr.M.Suri

For Respondent : No appearance

ORDER

This revision has been filed against the Docket order dated 11.12.2023 made in O.S.No.59 of 2018 on the file of the Additional District Judge, Kanyakumari District at Nagercoil.



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2.Suit in O.S.No.59 of 2018 was filed by the respondent herein seeking the relief of specific performance and for consequential reliefs.

This petitioner appeared and filed the statements. Issues were framed. Trial commenced. The respondent namely PW1 was put on box and cross examination was made by this revision petitioner. But, it was stopped by the Presiding Officer midway abruptly, stating that the petitioner is putting irrelevant questions, which were not pleaded in the written statement. Aggrieved over the manner of the closure of cross examination, this revision has been preferred.

3.The learned counsel for the revision petitioner submitted that with regard to the four boundaries, some questions were put by him to PW1. According to him, there are discrepancy in the four boundaries. Only at that time, the learned Presiding Officer interfered and objected that those facts were not pleaded in the written statement. So those questions cannot be asked. Reading of the record of proceedings indicates the following observation.

*“PW1 is present and cross examined partly.
Defendant counsel refused to further cross examine
the witness, since this Court refused to record the*



unnecessary question put by the defendant counsel regarding the 4 boundaries of the suit property without any pleadings. Hence for further plaintiff side evidence, call on 20.12.2023.”

4. But, the learned counsel for the revision petitioner would refer to the sale agreement and the plaint pleadings. When the petitioner says that there is discrepancies with regard to the four boundaries, I am of the view that it may not be proper on the part of the trial Court to stop those questions. It cannot be expected that the particulars put to the witness during the cross examination might have been pleaded in the written statement. But even for this, counsel for the petitioner pleaded that there is specific pleading in this regard also. In para No.4 of the written statement, it has been stated that the entire recitals found in the registered sale agreement available with the plaintiff was obtained by him under duress. So this is sufficient enough to put questions with regard to the recitals of the documents and discrepancies of the property also.

5. Therefore, I find that the objection made by the trial Court to put those questions is not proper. Let the PW1 be recalled and petitioner be



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permitted to cross examine PW1 in full. The recall application must be filed by the petitioner immediately and the trial Court is directed to fix a particular date for continuation of cross examination of PW1.

6. With the above said directions, this petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2024

Index : Yes / No
Internet : Yes / No
TM

To

1. The Additional District Judge, Kanyakumari District at Nagercoil.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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