



C.R.P(MD)No.1490 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)No.1490 of 2024
and
C.M.P(MD).No.8800 of 2024**

Resmi

... Petitioner

Vs.

R.Mathusoodhanan Nair

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 13.03.2024 of the learned Subordinate Judge, Kuzhithurai, made in I.A.No.6 of 2023 in O.S.No. 140 of 2014 on his file.

For Petitioner	: Mr.K.N.Thampi
For Respondent	: No appearance

ORDER

This civil revision petition is filed against the order dated 13.03.2024 made in I.A.No.6 of 2023 in O.S.No.140 of 2014.



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2. The Interlocutory application filed by the petitioner to recall P.W.2 for cross-examination was dismissed. On a perusal of the order, it reads as if earlier cost was imposed for recalling P.W.2 and cost is not paid. Again, the petition is filed and the same is only to drag on the proceedings and it is dismissed.

3. However, on a perusal of the records of the case, it can be seen that earlier the petitioner has filed an application to recall P.W.1, that application was allowed on payment of costs. Since the petitioner did not pay the cost, that application stood dismissed. Therefore, the reasoning as mentioned in the order is erroneous. Now, coming to recall of P.W.2 is concerned, since P.W.2 has not been cross-examined by the petitioner/defendant and the suit being at the same stage, that is the plaintiff's side evidence closed and it is posted for defendant's side evidence, I am of the view that one opportunity can be granted to the petitioner /defendant to cross examine P.W.2.

4. In view thereof, this Civil Revision Petition is allowed on the following terms:-

(i) The order dated 13.03.2024 made in I.A.No.6 of 2023 in O.S.No.140 of 2014 is set aside and consequently, the said I.A.No.6 of 2023 in O.S.No.140 of 2014 shall stand allowed;



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(ii) On the next date of hearing, after the receipt of the certified copy of the order, P.W.2 shall be present before the Court and the petitioner /defendant shall cross-examine P.W.2 and complete the cross-examination on the same day. If P.W.2 is unable to present on the next date of hearing, upon information, the P.W.2 shall be present on the subsequent hearing and as and when, the P.W.2 is present, the cross-examination should be completed on the same day and thereafter, the trial Court can proceed with the defendant's side evidence and the suit be disposed of as expeditiously as possible.

No costs. Consequently, connected Miscellaneous Petition is closed.

23.07.2024

NCC:Yes/No

Index:Yes/No

Rmk

To

The Subordinate Judge, Kuzhithurai.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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