



C.R.P(MD)Nos.1126 & 1127 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)Nos.1126 & 1127 of 2019

and

C.M.P(MD)No.6149 of 2019

1.Rukumoni

2.V.Selvi

3.V.Vishnu Lingam

4.V.Sundaralingam

5.Jeyarani

6.V.Ramesh

... Petitioners/Petitioners
Defendants
(In both the cases)

Vs.

V.Krishnakumar

... Respondent/Respondent
Plaintiff
(In both the cases)



C.R.P(MD)Nos.1126 & 1127 of 2019

PRAYER in C.R.P(MD)No.1126 of 2019: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 05.02.2019 passed in I.A.No.558 of 2017 in O.S.No.90 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel.

PRAYER in C.R.P(MD)No.1127 of 2019: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 05.02.2019 passed in I.A.No.559 of 2017 in O.S.No.90 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel.

In both the cases:

For Petitioners : Mr.M.P.Senthil

For Respondent : Mr.J.John Jayakumar

COMMON ORDER

Both the Civil Revision Petitions have been filed by the defendants in O.S.No.90 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate Court, Eraniel, challenging the order wherein their request for re-open and recall of P.W.1 for cross-examination was rejected.



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2. The sole respondent herein as plaintiff had filed O.S.No.90 of 2011 for the relief of partition and separate possession. The chief examination of P.W.1 was completed on 25.07.2017 and when the matter was posted for cross-examination of P.W.1, the defendants have not chosen to cross-examine him. Hence, the plaintiff's side evidence was closed on 17.08.2017. Thereafter, applications were filed in I.A.Nos.558 and 559 of 2017 to re-open and to recall P.W.1 for cross-examination. These applications have been dismissed by the Trial Court on the ground that, in the affidavit, the defendants have made a false statement that they have partly cross-examined the plaintiff when actually they have not cross-examined. Challenging the same, the present Civil Revision Petitions have been filed.

3. According to the learned Counsel appearing for the revision petitioners, cross-examining P.W.1 is very much essential, otherwise they will be put to great hardship and they will complete the cross-examination on a single day. However, the learned Counsel appearing for



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the respondent strenuously objected to the said request on the ground that, the suit is of the year 2011 and so far the defendants have not chosen to cross-examine P.W.1 and they are attempting to drag on the proceedings.

4. Considering the above said facts, this Court is inclined to allow both the revision petitions with a strict direction to the defendants to conduct the cross-examination of P.W.1 in anyone of the days between **22.04.2024** and **26.04.2024**. In case, if the defendants do not cross-examine P.W.1 in anyone of the days mentioned above, the Trial Court shall proceed in accordance with law.

5. With the above said observation, both the Civil Revision Petitions stand allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

08.04.2024



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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

Note: Issue order copy on 10.04.2024.

To

- 1.The Principal District Munsif cum Judicial Magistrate,
Eraniel.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)Nos.1126 & 1127 of 2019

08.04.2024