



C.R.P.(MD)No.1909 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1909 of 2024

and

C.M.P.(MD)No.10828 of 2024

Emil Jeyaraj

... Petitioner/Petitioner/Defendant

Vs.

Ponraj

... Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 06.07.2024 passed in I.A. No.2 of 2024 in O.S. No.19 of 2018 on the file of the Additional Sub Court, Srivilliputhur.

For Petitioner : Ms.K.R.Shivashankari

For Respondent : Mr.H.Arumugam

* * *

ORDER

Heard both sides.



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2.The defendant in O.S.No.19 of 2018 on the file of the Additional Sub Court, Srivilliputhur is the revision petitioner. The suit is for declaration and recovery of possession. The plaintiff is the father while the defendant is the son. The plaintiff's daughter had filed proof affidavit as P.W.1. To scrap the same, the defendant filed I.A.No.2 of 2024. The Court below dismissed the said I.A. Questioning the same, the present civil revision petition came to be filed.

3.The learned counsel for the revision petitioner drew my attention to Order XVIII Rule 3-A of Civil Procedure Code and the decision reported in **2013 1 LW 72 (Ramuthai Vs. Mookkayee @ Pappammal)** in support of her contention that the plaintiff must appear as the first witness, if he wishes to appear as witness. Otherwise, he must obtain leave from the Court to examine himself later. Since such a leave has not been obtained, the evidence adduced by P.W.1 has to be scrapped.

4.I am not swayed by the said submission. As rightly pointed out by the learned counsel for the respondent, the decision reported in 2013 1 LW 72 has not taken note of the earlier decision rendered by the Hon'ble Division Bench in the decision reported in **2008 (1) CTC 36 (Ravi vs. Ramar)**. The Hon'ble



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Division Bench had held that it is not necessary to obtain leave at the inception.

As and when, the plaintiff wants to examine himself as a witness, he may have to seek permission under Order XVIII Rule 3-A of Civil Procedure Code. The issue raised in this civil revision petition is squarely covered by the aforesaid decision of the Hon'ble Division Bench. I do not find any merit in this civil revision petition and it stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The Additional Sub Court,
Srivilliputhur.



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G.R.SWAMINATHAN, J.

ias

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