



C.R.P. (MD) Nos. 2233 and 2234 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) Nos. 2233 and 2234 of 2022

and

C.M.P. (MD) No.10451 of 2022

1.Madhavi

2.Kalaiyarasi

3.Valarmathi

Through their Power Agent

R.Muthaiah

... Petitioners/

Defendants 1 to 3

(in both CRPs)

-VS-

Kannagi

... Respondent/

Plaintiff

(in both CRPs)

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair order and Decreetal order dated 28.06.2022 passed in I.A.Nos.12 and 13 of 2022 in O.S.No.34 of 2016 on the file of the learned District Munsif Court, Devakottai, Sivagangai District by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Karthik (both petitions)

For Respondent : No appearance (both petitions)



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COMMON ORDER

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These Civil Revision Petitions are filed aggrieved by the order dated 28.06.2022 of the learned District Munsif, Devakottai, in I.A.No.12 of 2022 and 13 of 2022 in O.S.No.34 of 2016.

2. The said interlocutory applications were filed to reopen the evidence on the defendants side and also to recall the D.W.2 for further cross-examination. The Trial Court found that the D.W.2 at the stage of further cross-examination failed to appear before the Court and therefore, the evidence was closed. The Trial Court found that these applications are filed routinely and therefore, dismissed the petition.

3. I have considered the submissions made by the learned Counsel for the petitioner and perused the material records of the case. More importantly, it is now represented by the learned counsel for the petitioner that the suit is still at the same stage as of the year 2022 and the same is pending for arguments. It can be seen that the D.W.2's cross-examination was posted on 22.03.2022 and though, there is mistake only on behalf of the petitioners, still when an application was filed immediately on 08.04.2022, an opportunity could have been granted. It is further pleaded in the affidavit filed in support of the



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application that the matter was pending for further cross-examination for almost six months and earlier on an occasion D.W.2 was also present in Court for cross-examination and the matter was adjourned. Taking the overall facts and circumstances of the case and considering the fact that in spite of there being no interim order in the present Civil Revision Petitions, still the suit is in the same stage, I am of the view that in this case, one more opportunity shall be granted to the petitioners.

4. In view thereof, these Civil Revision Petitions are allowed and the order of learned District Munsif, Devakottai, dated 28.06.2022 in I.A.No.12 of 2022 and 13 of 2022 shall stand set aside and the case is reopened for the defendants side evidence and D.W.2 is recalled for the purpose of cross-examination. On the next hearing date (09.07.2024), D.W.2 shall be present before the Court, on which date, the plaintiff shall cross-examine the D.W.2 without fail and the Trial Court shall expeditiously dispose of the suit considering that the matter is of the year 2016. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes
NCC : No



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D.BHARATHA CHAKRAVARTHY, J.

PKN

To

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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