



C.R.P. (MD) No. 950 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 950 of 2024

and

C.M.P. (MD) No.5152 of 2024

Shenbagapandiyarajan

... Petitioner/

Tenant

-VS-

1.Sukumar

2.Thilakavathi

... Respondents/

Landlords

PRAYER: Civil Revision Petition filed under Section 225 of the Constitution of India, to set aside the impugned fair and decreetal order dated 08.08.2023 in I.A.No.91 of 2022 in R.C.O.P.No.35 of 2013, on the file of the Principal District Munsif Court, Dindigul District.

For Petitioner : Mr.B.Azhagesh

For Respondent : No appearance



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ORDER

The Civil Revision Petition arises out of the order dated 08.08.2023 made in I.A.No.91 of 2022 in R.C.O.P.No.35 of 2013.

2. The petitioner filed the above interlocutory application to recall P.W.1 for cross-examination. According to the petitioner, P.W.1 was examined and the matter was posted for P.W.1 cross on 12.09.2022 and that too, no cross-examination was done and the matter was posted to 22.09.2022. On 22.09.2022, P.W.1 was not present. Again the matter was adjourned to 14.10.2022, 27.10.2022 and 10.11.2022, on which dates, the P.W.1 was not present. Finally, the matter was adjourned to 18.11.2022 for cross-examination of P.W.1., on that day P.W.1 is present, however, the learned counsel appearing on behalf of the petitioner could not cross-examine the P.W.1 on the said date. Therefore, evidence was closed. Immediately, the present application was filed to recall the P.W.1 for cross-examination, which is now dismissed by the impugned order.

3. Heard Mr.B.Azhagesh, the learned Counsel appearing on behalf of the petitioner,who reiterated the submissions made in the petition. Even though summons is served, the respondents/landlord has not chosen to appear before



this Court.

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4. The learned Counsel for the petitioner has produced the extract of the proceedings from which it can be seen that only on one occasion i.e., 12.09.2022, the matter was adjourned for cross-examination and thereafter, for four consecutive hearings, P.W.1 was absent and on the fifth hearing, P.W.1 was present, the petitioner did not cross-examine and therefore, it is closed.

5. Considering the said facts and the further fact that immediately the application is filed, last opportunity is granted to the petitioner. It is also seen that the RCOP is of the year 2013. Therefore, let the P.W.1 be present on the next hearing which is happening after the receipt of a copy of this order, on the same day without fail, the petitioner has to cross-examine the P.W.1. No further extension of time or opportunity will be granted. With the above conditions, this Civil Revision Petition is allowed on the following terms:-

(i) The order dated 08.08.2023 in I.A.No.91 of 2022 in R.C.O.P.No.35 of 2013 shall stand set aside;

(ii) This petition is allowed;

(iii) The next hearing date after receipt of a copy of the order, the P.W.1 shall be present before the Court and the petitioner shall cross-examine the



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P.W.1 and no further time will granted at the instance of the petitioner.

Consequently, the connected Miscellaneous Petition is closed. No costs.

03.07.2024

Index : Yes

NCC : No

PKN



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To

The Section Officer,

Vernacular Records,

Madurai Bench of Madras High Court,

Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

PKN

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