



C.R.P.(MD)Nos.3112 and 3113 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)Nos.3112 and 3113 of 2023
and C.M.P.(MD).No.16056 & 16057 of 2023

Cicily

... Petitioner/Petitioner
/1st Respondent in both petitions

Vs.

1.Mariadhas ... 1st Respondent/1st Respondent/Appellant

2.Lazar

3.Balakrishkrishnan

4.Masillamony

5.Therasammal

6.Margret Marry

7.Elsy

8.George

9.Victorial

10.Alphonsal

11.Pushpam

12.Chellammal ... 2 to 12 Respondents/2 to 12 Respondents/
2 to 12 Respondents



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COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 18.10.2023 passed in I.A.Nos.2 and 3 of 2023 in A.S.No.144 of 2015 on the file of the Sub Court, Kuzhithurai.

For Petitioner : Mr.R.M.Sivakumar for
Mr.R.Murugan

For Respondents : Mr.Ka.Ramakrishnan for R1
R2 to R12 - Exparte

COMMON ORDER

These revision petitions have been filed against the order dated 18.10.2023, passed by the Sub Court, Kuzhithurai, in I.A.Nos.2 and 3 of 2023 in A.S.No.144 of 2015.

2.The learned counsel for the petitioner would submit that this Court in S.A.(MD).No.75 of 2017, while remanding the matter back to the appellate Court, directed the both parties to adduce oral evidence with regard to the marking of the additional documents filed in the application under Order 41 Rule 27 C.P.C. and also permitting the appellant therein to adduce rebuttal evidence and further directed the appellate Court to dispose of the appeal within a period of three months



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from the date of receipt of the said judgment and directed the parties to appear before the Sub Court, Kuzhithurai on 17.07.2023. He would further submit that in pursuance of the directions, they have appeared and P.W.1 was examined on 25.07.2023 and the case was posted for cross examination on 18.07.2023 and since the revision petitioner was not well, he could not appear before the Court and the Court without granting further time, closed the evidence. He would further submit that the appellate Court by recording that there was no representation for the revision petitioner, closed the arguments on the side of the revision petitioner and posted the case for judgment on 28.11.2023. Therefore, to reopen the evidence and recall the witness, I.A.Nos.2 and 3 of 2023. The same were dismissed. Aggrieved over the same these petition have been filed.

3.Heard the counsel for the petitioner and the first respondent. The learned counsel for the petitioner undertakes to complete the evidence on a single day itself.



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4.Considering the facts and circumstances of the case and considering the undertaken given by the counsel for the revision petitioner, this Court is inclined to allow this petition on payment of cost to the respondent in the interest of justice and in order to give one more opportunity to the petitioner.

5.In view of the above, this revision petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondents herein. Let the respondent be present before the first appellate Court on 06.03.2024. Let the above said cost be paid by the revision petitioner directly to the respondent immediately. Memo must be filed before the first appellate Court before the date of hearing i.e., 06.03.2024. On that date, the revision petitioner must cross examine the respondent in full without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited. No further opportunity will be given by the first appellate Court at the instance of the revision petitioner herein. Similarly, the petitioner's side evidence must also be completed on a single day, thereafter. Let the earlier direction to dispose of the appeal must be complied by the first appellate Court without fail, for which,



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both parties must co-operate with the first appellate Court.

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6. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Index : Yes / No
Internet : Yes / No
TM

To

1. The Sub Judge, Kuzhithurai.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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