



C.R.P.No.420 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.420 of 2024
and
C.M.P.No.2008 of 2024

Balasubramaniam

... Petitioner

vs.

Yuvarani

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Final Order dated 04.12.2023 made in I.A.No.8 of 2023 in F.C.O.P.No.148 of 2017 on the file of the Court of the Family Judge, Erode by allowing this Civil Revision Petition.

For Petitioner : Ms.S.Meera Devi
for M/s.C.E.Pratap

For Respondent : Mr.K.S.Jeyaganeshan



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Family Court, Erode in I.A.No.8 of 2023 in F.C.O.P.No.148 of 2017, dated 04.12.2023 dismissing the application filed by the petitioner seeking recall of PW.1.

2. The respondent/wife filed a petition seeking for divorce in F.C.O.P.No.148 of 2017 on the file of the Family Court, Erode. The same has been resisted by the petitioner/husband by filing counter affidavit. The enquiry in original petition was commenced long back and PW.1 is on witness box.

3. It is stated by the petitioner that when the main original petition was posted for cross examination of PW.1 on 16.11.2023, the petitioner's counsel could not cross examine the witness as there was some death in the family of his associate. However, the Trial Court closed the evidence of PW.1 and hence, the instant application has been filed to recall of PW.1 for further cross examination.



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4. The learned counsel appearing for the petitioner would submit that in the interest of justice, one opportunity shall be given to the petitioner for completing the cross examination of PW.1.

5. The learned counsel appearing for the respondent by taking this Court to the typed-set of papers would submit that the enquiry in original petition was commenced long back and the matter was posted for cross examination of PW.1 as early as 29.08.2018. Thereafter, the matter has been adjourned several times and inspite of the same, the petitioner failed to cross examine the witness for the past five years.

6. It is also brought to the notice of this Court that the petitioner filed similar application for recall of PW.1 for more than four occasions. It is seen from typed-set of papers that I.A.No.2 of 2021, I.A.No.7 of 2023 and I.A.No.8 of 2023 has been filed for recalling of PW.1 for further cross examination. The Trial Court in Paragraph Nos.10, 12 and 13 of the impugned order mentioned about the several adjournments granted by it at request of petitioner for cross examination of PW.1 for more than five years.



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7. As far as present application filed by the petitioner seeking recall of PW.1 is concerned, it was stated by the petitioner that on the relevant date, there was death in the family of his counsel's associate and therefore, his counsel could not cross examine the witness.

8. In view of the said reason given by the petitioner, this Court is inclined to take liberal view of the matter and give one opportunity to the petitioner for cross examination of PW.1. However, taking into consideration the matter has been adjourned for several occasions for the past five years in the stage of cross examination of PW.1 and also the fact this is the third application filed by the petitioner seeking recall of witness. This Court is inclined to impose heavy cost of Rs.10,000/- on the petitioner.

9. In view of the same, the Civil Revision Petition is allowed on condition that the petitioner shall deposit a sum of Rs.10,000/- towards cost to the credit of FCOP.No.148 of 2017 on the file of the Family Court, Erode, within a period of two weeks from the date of receipt of copy of this order. Failing which, the Civil Revision Petition shall stand automatically dismissed, without further reference to this Court. On payment of costs as indicated, the impugned order passed by the Family Court, Erode in



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I.A.No.8 of 2023 in F.C.O.P.No.148 of 2017, dated 04.12.2023 shall stands set aside and the petitioner shall cross examine the witness in the next date of hearing after two weeks.

10. The respondent is permitted to withdraw the cost deposited by the petitioner before the Trial Court. Taking into consideration the original petition for divorce filed by the respondent was of the year 2017 and the same has been dragged on due to the failure of the petitioner to cross examine PW.1, this Court is inclined to direct the Family Court, Erode to dispose of the original petition in F.C.O.P.No.148 of 2017, as expeditiously as possible.

11. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.12.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Family Court, Erode.

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S.SOUNTHAR, J.

dm

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