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A NO. 1620 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

A NO. 1620 of 2025

in

O.P.No.941 of 2006

R.Lakshmi and 3 others
W/o.Late N.Rajendran, All are residing at No.15-
A, Bharathi Nagar, 6th Street, Korukkupet,
Chennai 21. and 3 Others

Applicant(s)

Vs

Kuppammal and 2 others
W/o.N.Rajendran, All are residing at No.6,
Melagai Chedikulam, Gummidipoondi,
Thiruvallur District 601 201. and 2 Others

Respondent(s)

Prayer: Judge's Summons under Order XIV Rule 12 of O.S.Rules and Read with Section 151 of C.P.C., praying to set aside the order of Learned Master dated 29.10.2024.

For Applicant(s):

M/S.M.J. Vijayaraaghavan

For Respondent(s):

Mr.R.Velu



ORDER

The learned counsel appearing for the applicants would submit that the learned Master had closed evidence of the Subpoena as the said Subpoena witnesses were not examined. He would submit that the applicants had earlier sought for issuance of Subpoena for two officials, which was ordered. The Subpoena witnesses had appeared before the learned Master on 27-09-2024, but did not produce any documents. Hence, at request, the matter was adjourned to 29-10-2024. On 29-10-2024, a request was made for an adjournment by both the sides. However, the learned Master had recorded that there is no representation on the side of the respondent and the learned counsel for the petitioner without even knowing the stage, had sought for time. The learned Master then imposed a cost of Rs.10,000/- payable to each of the Subpoena witnesses by considering the fact that the Subpoena witnesses being Government servants, may earn more than Rs.1,00,000/- per annum. He would submit that such a conclusion arrived at by the learned Master is only arbitrary and not supported by any material evidence. He would further take me to the order of the learned Master and contend that the learned Master had recorded that the applicant/respondent was not ready to examine the witnesses in one hand and on the other hand, he had recorded that there is no representation on the side of the respondent/applicant. If the



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learned Master had ordered for costs to be paid, he ought not to have closed the evidence and ought to have adjourned the matter to some other date. Hence, he would seek indulgence of this Court to allow the application.

2. Mr.R.Velu, learned counsel appearing for the respondents would submit that he has no objection in allowing this application.

3. I have considered the submissions made by the learned counsel appearing on either side.

4. On 27.09.2024, the recording of evidence of the Subpoena witnesses was adjourned at the request of the petitioner's counsel as the same is evidenced in the order, which reads as follows:

<i>Date</i>	<i>Order</i>
27.09.2024	<i>Subpoena served. Witness/staff of BSNL appeared.</i> <i>At request of PC adjourned to 29.10.2024.</i>



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5. However, when the matter was taken up on 29.10.2024, a request seems to have been made by the learned counsel for the respondent, indicating that he is not ready to examine the witnesses and the learned counsel for the petitioner had sought for time. But in the subsequent portion, the learned Master had recorded that there is no representation on the side of the respondent. When the applicant's counsel had not sought for an adjournment on 27.09.2024, the learned Master ought not to have imposed costs on the applicant.

6. In such view of the matter, the order impugned herein is set aside. The matter is relegated back to the learned Master for recording of evidence of Subpoena witnesses on 25.04.2025.

7. Registry shall issue summons to the Subpoena witnesses by 04.04.2025. The applicant shall be filed necessary Batta for issuance of summons to the witnesses by 01.04.2025.



8. List the matter before the learned Master for recording of evidence

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on 25.04.2025.

26-03-2025

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To

1. Kuppammal and 2 others

W/o.N.Rajendran, All are residing at No.6, Melagai
Chedikulam, Gummidipoondi, Thiruvallur District 601
201.

2. Ravi

S/o.N.Rajendran

3. Nagaraj

S/o.N.Rajendran