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CMP NO. 4118 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-03-2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

CMP NO. 4118 of 2025

in

CRP NO. 5047 OF 2024, CMP NO. 28289 OF 2024

KAUSHALYA

D/o.Ramratan Shah, W/o.Mukesh Jain, No.3/5, Narayana
Mudali Street, Sowcarpet, Chennai 1.

Appellant(s)

Vs

Mukesh Jain

S/o.Poonamchand Jain, 25-A, Mahaveer Colony, Sector B,
Ratanada, Near Khadi Bhandar, Jothpur-342001 Rajasthan
(Regd. Address) Mukesh Jain C/o.N.C.Bhandari, B-23, Ashok
Society-IV, Opposite Lions Hall, Race Course, Baroda-390007,
Gujarat

Respondent(s)

CRP NO. 5047 of 2024

Mukesh Jain

S/o. Poonamchand Chhaged, No.B-23, Ashok Society IV, Race
Course, Baroda, Gujarat 390 007.

Appellant(s)

Vs

Koushalya

No.3, Narayana Mudali Street, Sowcarpet, Chennai 1.

Respondent(s)

CMP NO. 28289 of 2024

Mukesh Jain

S/o. Poonamchand Chhaged, No.B-23, Ashok Society IV, Race
Course, Baroda, Gujarat 390 007.

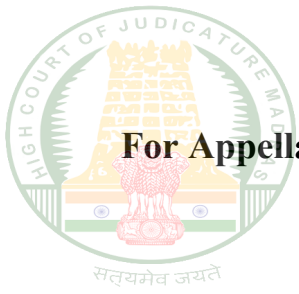
Appellant(s)

Vs

Koushalya

No.3, Narayana Mudali Street, Sowcarpet, Chennai 1.

Respondent(s)



CMP NO. 4118 of 2025



For Appellant(s):

For Respondent(s):
CHENNAI

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CRP NO. 5047 of 2024

For Appellant(s):

S.P.Arthi
G. Indhumathi
S.P. Nagaraj
M.S. Niranjhan For Petitioner

For Respondent(s):

CHENNAI

CMP NO. 28289 of 2024

For Petitioner : Kousalya – Party -In Person

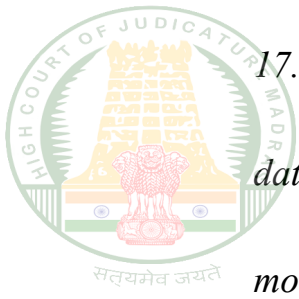
For Respondent(s):

S.P.Arthi
G. Indhumathi
S.P. Nagaraj
M.S. Niranjhan For Petitioner
M.S. Niranjhan

ORDER

The above civil miscellaneous petition has been filed seeking to extend the time stipulated by this Court on 18.12.2024 by a further period of 6 weeks.

2. This Court does not wish to traverse through the facts of the case. Suffice it to state that this Court on 18.12.2024 had disposed of C.R.P.No.5047 of 2024 giving the following directions:



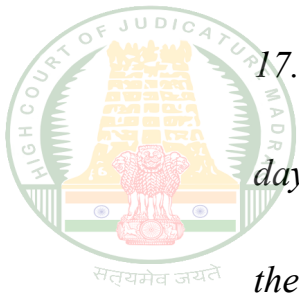
17.1 Since the enhanced condition has been complied with, the order dated 27.09.2022 made in D.V.C. No.21 of 2014 stands restored and modified;

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17.2 The learned XVI Metropolitan Magistrate, George Town, Chennai shall receive the proof affidavit of the petitioner on 17.01.2025. He is requested to post the matter on 20.01.2025. On that day, cross-examination of P.W.1 will commence. The same shall be completed on or before 23.01.2025;

17.3 The copy of the proof affidavit of the petitioner shall be served on the party-in-person. In case, the party-in-person refuses to receive the copy, the copy thereof shall be filed along with the original proof affidavit in the Court on 17.01.2025 so as to enable the party-in-person to collect it from the Court after making due endorsement in the bundle;

17.4 Since the proof affidavit would have been presented on 17.01.2025, the party-in-person or her counsel will be entitled to cross-examine the civil revision petitioner from 27.01.2025 to



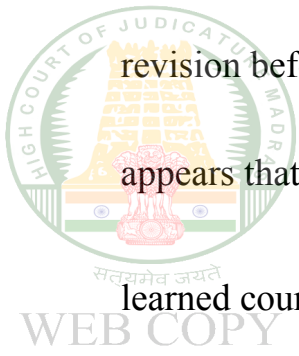
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17.5 Learned Magistrate is requested to adjourn the matter day-to-day and dispose of the proceedings. He shall render the judgment in the DVC proceedings itself on or before 28.02.2025. He shall submit a report of compliance to this Court along with a copy of the final order passed in D.V.C. No.21 of 2014.

17.6 Absolute discretion is given to the learned Metropolitan Magistrate to reject any request for adjournment that might be made on the side of either party in case he finds that such request is unnecessary.

Therefore, the learned XVI Metropolitan Magistrate, George Town, Chennai was directed to receive the proof affidavit of the respondent herein and a direction was issued to post the matter on 20.01.2025 for commencement of cross examination of the petitioner herein(P.W1) and that the same was to be completed on or before 23.01.2025.

3. The notes of proceedings of the learned XVI Metropolitan Magistrate would indicate that on 20.01.2025 though the petitioner was present and the respondent was ready to cross examine the petitioner, the petitioner argued that she was not



revision before the Hon'ble Supreme Court. As the stay order was not produced,

appears that the matter was thereafter posted to 21.01.2025. On the said date, the

learned counsel for the 1st respondent contended that she was ready to cross examine

the P.W1 and likewise, she had represented that the 1st respondent was also ready

for cross examination. However, an argument was raised that the respondent had not

filed a counter and without any counter, the petitioner cannot file a re-joinder and

the matter was adjourned to 22.01.2025.

4. On 22.01.2025, since the counter was not filed, the matter was adjourned to

23.01.2025 and ultimately on 23.01.2025, the proof affidavit of the 1st respondent

was treated as a counter of the 1st respondent and a detailed order has been passed in

Crl.M.P.No.361 of 2025 and the matter was thereafter posted to 24.01.2025 for

continuation of cross examination of P.W1. On 24.01.2025 and 27.01.2025, P.W1

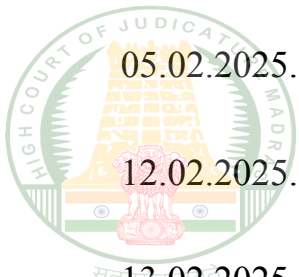
was cross examined in part. On 03.02.2025, P.W1 was not present and the matter

was adjourned to 05.02.2025 as a last chance. On 05.02.2025, P.W.1 was cross

examined in full. Thereafter, the petitioner's re-examination went on from

06.02.2025, 07.02.2025, 10.02.2025 and 12.02.2025. Therefore, the cross

examination of P.W1 was not completed before 23.01.2025 as directed by this



05.02.2025. The re-examination of the plaintiff took place from 06.02.2025 to

12.02.2025. Thereafter, though R.W1 was present for cross examination on

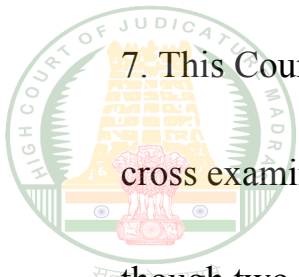
13.02.2025, however, the petitioner despite being present with her counsel, did not

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proceed with the cross examination and the matter was adjourned to 14.02.2025.

5. The cross examination of R.W1 has started from 14.02.2025 onwards and to date, his cross examination continues. He has been cross examined on 9 occasions which is contrary to the directions issued by this Court in C.R.P.No.5047 of 2024 at Clause 17.4.

6. A perusal of the evidence would clearly show that the cross examination of R.W1 is proceeding at a Snail's face. Further, the conduct of the petitioner has been commented upon on several occasions by the learned XVI Metropolitan Magistrate. The petitioner has sought for 6 weeks extension to complete the cross examination of R.W1 immediately after the first cross examination of R.W1. Of this 6 weeks, 4 weeks has already lapsed. On 19.03.2025, the learned Judge had noted that despite the Court's direction to maintain decorum, the witness was arguing with the Court as a result of which the learned Judge was unable to proceed with the hearing and had to adjourn it to 24.03.2025.



7. This Court by its order dated 18.12.2024 had clearly given directions that the

cross examination of R.W1 had to be concluded on or before 31.01.2025. However,

though two months have lapsed from the given date, the petitioner has not concluded

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the cross examination and on the contrary, has filed an application for extension

after the first date of cross examining the R.W1.

8. The ground on which the extension is sought for is that the SLP and the contempt

petitions are pending before the Hon'ble Supreme Court. However, no orders has

been produced to date. Therefore, it appears that the only intent of the petitioner is to

prolong and protract the proceedings.

9. A perusal of the deposition would clearly show how the petitioner herein has

cross-examined the witness for short periods so as to ensure that the cross

examination is kept pending. The proceedings from 20.01.2025 till 19.03.2025

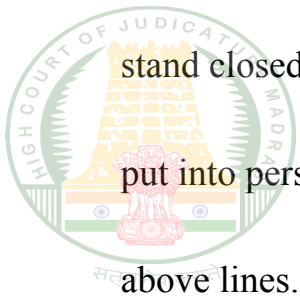
would show how the order of this Court in C.R.P has been observed in breach on

account of the petitioner's conduct.

10. Now, the matter is posted on 24.03.2025. The petitioner shall complete the cross

examination of R.W1 by 27.03.2025. If the cross examination is not completed by

the petitioner by the said date, a cost of Rs.1,000/- shall be paid to the witness-



stand closed. The notes of proceedings is appended along with this order in order to put into perspective the conduct of the petitioner. The petition is allowed on the above lines.

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21-03-2025

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CMP NO. 4118 of 2025

To

1. The XVI Metropolitan Magistrate,
George Town, Chennai

2. Kaushalya
D/o.Ramratan Shah,
W/o.Mukesh Jain,
No.3/5, Narayana Mudali Street, Sowcarpet, Chennai 1.