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C.R.P.Nos.3812 and 3814 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

**C.R.P.Nos.3812 and 3814 of 2025
and
C.M.P.Nos.20235 and 20241 of 2025**

J.Neelavathi

...Petitioner in both CRPs

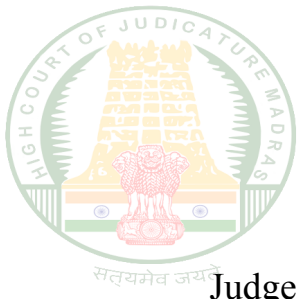
Vs.

1.B.Gopinath
2.Prabhu
3.Lakshmi

...Respondents in both CRPs

Prayer in CRP.No.3812 of 2025:- Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow this Civil Revision Petition by setting aside the fair and decretal order dated 10.07.2025 passed in I.A.No.6 of 2025 in O.S.No.5411 of 2019 by the learned IV Assistant Judge, City Civil Court, Chennai.

Prayer in CRP.No.3814 of 2025:- Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow this Civil Revision Petition by setting aside the fair and decretal order dated 10.07.2025 passed in I.A.No.7 of 2025 in O.S.No.5411 of 2019 by the learned IV Assistant



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Judge, City Civil Court, Chennai.

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For Petitioner : Mr.C.S.Kiran
(in both CRPs)

For Respondents : Mr.S.Sadasharam
(in both CRPs)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The Revision Petitioner is the defendant. Aggrieved by the Trial Court allowing the applications for reopen and recall of D.W.1 for further cross examination, the present revisions are filed. It is seen that after Chief Examination of D.W.1, the witness was partly cross examined on a particular date and subsequently, a memo was filed by the learned counsel for the plaintiff seeking to eschew the evidence of D.W.1. However, no orders came to be passed on the said memo. Thereafter, the plaintiff has take out applications to reopen and recall D.W.1 for further cross examination.

3. The said applications was strongly objected by the revision



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petitioner on the ground that the witness is aged 81 years and the applications have been taken out are belatedly and the delay is also un-explained. However, the Trial Court, after considering the objections of the revision petitioner and in order to give an opportunity to the respondent / plaintiff to cross examine D.W.1., allowed the applications. In fact, to compensate the prejudice, a cost of Rs.3,000/- was ordered to be paid to the revision petitioner. The said amount has also been deposited to the credit of the suit.

4. On going through the cross examination already on record, I find that cross examination is not complete and only in view of the subsequent events that the evidence of D.W.1 was going to be eschewed, elaborate cross examination of D.W.1 has not been conducted. This has weighed in the mind of the learned Trial Judge, in allowing the applications, subject to payment of cost. The Trial Court has also taken into consideration that the age of D.W.1 is more than 81 years. Therefore, I am not inclined to interfere with the well considered order of the Trial Court.

5. The learned counsel for the Revision Petitioner states that D.W.1 is not in a position to travel and appear in person before the Court and



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seeks an Advocate Commissioner to be appoint for his cross examination.

6. In the light of the above, while confirming the order in I.A.Nos.6 and 7 of 2025, a direction is issued to the Trial Court to appoint an Advocate Commissioner for the purpose of completion of cross examination of D.W.1 on a particular date and on the date fixed, no adjournment shall be sought for and cross examination shall be completed in full. The remuneration of the Advocate Commissioner shall be paid by the learned counsel for the plaintiff.

7. These Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.08.2025

Index: Yes/No
Internet: Yes/No
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To

The VI Assistant Judge, City Civil Court, Chennai.

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P.B.BALAJI. J,

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