



C.R.P.No.4318 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM

THE HON'BLE Mr. JUSTICE N.SATHISH KUMAR

C.R.P.No.4318 of 2024
and C.M.P.No.24003 of 2024

1. Gladys Singh @ Mabel Gladys Singh
2. E.Kingsles Roy Singh

... Petitioners

Vs.

E.Felista Rani

... Respondent

Prayer :- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 18.09.2024 passed on un-numbered memo dated 18.07.2024 in O.S.No.5721 of 2019 on the file of the XV Additional City Civil Court at Chennai.

For Petitioners : Mr.V.Raghavachari
Mr.A.G.Vedavikas
For Respondent : Mr.A.Veerasamy

ORDER

Challenging the impugned order dated 18.09.2024, rejecting the memo filed by the petitioners to reject the evidence of D.W.2, the present revision petition has been filed.

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2. The memo has been filed by the plaintiff contending that D.W.2 on the side of the defendant, is none other than the husband of D.W.1 and he was present when D.W.1 was examined. Therefore, his evidence cannot be received. The memo filed by the plaintiff has been rejected. Challenging the same, the present Civil Revision Petition has been filed.

3. Mr.V.Raghavachari, learned Senior Counsel appearing for the petitioners submits that when D.W.1 was examined, her husband was very much present in the Court. Therefore, his evidence cannot be taken.

4. This Court is of the view that this kind of petition itself cannot be maintainable and the revision petition cannot seek indulgence of this Court to prevent the evidence being let in by the party on his side. Even assuming that D.W.2 was present while examining D.W.1 in the Court of law, that cannot be a ground to prevent his witness being examined. It is for the trial Court, being the master in appreciation of evidence, to appreciate



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the evidence taking into all circumstances. Mere presence of one of the witnesses, will not have any impact. Whether his presence has tilted the evidentiary value of any witness or not, has to be seen only by trial court while appreciating the evidence.

5. In the given case, the suit itself is filed for annulling the document, that too after the death of the executant. Therefore, merely D.W.1, was present in one of the hearings and merely because D.W.1 admitted his presence, it cannot be said that his evidence to be thrown out outrightly. It is well open to the plaintiff to contradict D.W.2's evidence before the trial Court and he can very well bring the circumstances in the cross-examination about his presence. Without following the said procedure, as a matter of right, they cannot prevent the evidence putforth by the party.

6. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.



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Index : Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking order
rts



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N.SATHISH KUMAR, J.

rts

To
The XV Additional Judge,
City Civil Court,
Chennai

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