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CRP.No.5347 of 2024 and CMP.No.29705 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.5347 of 2024
and
CMP.No.29705 of 2024

Thulasiman

... Petitioner / Petitioner / Defendant

Versus

Chellammal

... Respondent / Respondent / Plaintiff

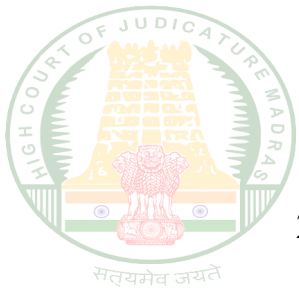
Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the above Civil Revision Petition and set aside the fair and decreetal order dated 08.08.2024 passed by the learned Judge (District Munsif Court at Perundurai) in I.A.No.14 of 2024 in O.S.No.303 of 2008.

For Petitioner : Mr.R.Ananth

For Respondent : Mr.M.Guruprasad

ORDER

Unsuccessful first defendant has preferred the present Civil Revision Petition.



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2. One Chellammal filed a suit in O.S.No.303 of 2008 on the file of the District Munsif Court, Perundurai, seeking partition. In the suit, six defendants were made parties. The defendants filed their written statements, and necessary issues were framed. The trial commenced and on the plaintiff's side, the plaintiff herself was examined as P.W.1. The case was posted on 24.06.2024 for the cross examination of P.W.1. At this stage, the revision petitioner / first defendant did not choose to cross-examine P.W.1, and consequently, he was set exparte on 24.06.2024. Therefore, the revision petitioner / first defendant filed an application in I.A.No.14 of 2024 in O.S.No.303 of 2008 under Order IX Rule 7 of the CPC to set aside the exparte order dated 24.06.2024. The Court below, vide order dated 26.06.2024, allowed the petition and imposed a condition to cross examine P.W.1 on 11.07.2024. However, the revision petitioner / first defendant did not comply with the said condition. Hence, the Court below, by order dated 08.08.2024, dismissed I.A.No.14 of 2024 in O.S.No.303 of 2008. Aggrieved over the same, the revision petitioner / first defendant has preferred the present Civil Revision Petition.

3. The learned counsel for the revision petitioner would submit that the suit was posted for the cross - examination of P.W.1, and at that point of time,

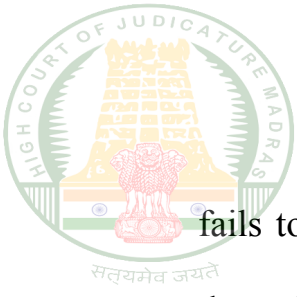


the revision petitioner was bedridden due to ill health and was unable to give proper instructions to his counsel to cross-examine P.W.1. Therefore, the lapse was neither willful nor wanton.

4. Per contra, the learned counsel appearing for the first respondent / plaintiff would submit that even though the Court below granted sufficient time to cross - examine P.W.1, the revision petitioner / first defendant deliberately failed to do so. The reason assigned by the revision petitioner is not acceptable since the suit is of the year 2008, and his intention is only to protract the proceedings.

5. In response, the learned counsel for the revision petitioner would submit that, in order to decide the real controversy between the parties, one more opportunity may be granted to the revision petitioner / first defendant to cross-examine P.W.1, by fixing a specific time limit and by imposing appropriate costs.

6. Considering the nature of the case, this Court is inclined to allow the revision petitioner / first defendant to cross-examine PW1 on the next hearing date, i.e., 15.10.2025. In the event that the revision petitioner / first defendant



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fails to cross-examine P.W.1 on that date, he shall forfeit his right to do so thereafter.

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7. Therefore, the order dated 08.08.2024 passed in I.A.No.14 of 2024 in O.S.No.303 of 2008 is hereby set aside, subject to the condition that the revision petitioner / first defendant shall pay a sum of Rs.5,000/- to the plaintiff on or before 13.10.2025. P.W.1 shall be present before the Court on 15.10.2025, and the first defendant shall complete the cross examination on that date without seeking any further adjournment.

8. Accordingly, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

08.10.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned District Munsif Court,
Perundurai

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M. JOTHIRAMAN, J.

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