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CRP No. 6167 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 6167 of 2025

and C.M.P.No.30284 of 2025

HEMALATHA,
W/o Late Ashokan,
Running M/s Prathana Gas Agency,
At No 37, Rajiv Gandhi Street,
Moovarasampet,
Madipakkam, Chennai 600091.

..Petitioner(s)

Vs

Arulkumaran @ ArulAnbarasu,
S/o Anbarasu,
Residing at No 105, Kamala Garden,
Trunk Road, Kattupakkam,
Poonamalle, Chennai 600 056.

..Respondent(s)

PRAYER – This Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 12.09.2025 in I.A.No.5 of 2025 in O.S.No.298 of 2019 on the file of the Additional District Munsif Court at Alandur and consequently allow the I.A.No.5 of 2025.

For Petitioner: Mr.M.Thangadurai

ORDER

The Civil Revision Petition has been filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner/plaintiff



seeking to eschew the evidence of P.W.1 and to permit the petitioner to give fresh evidence.

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2.The petitioner/plaintiff filed the suit in O.S.No.298 of 2019 for permanent injunction against the respondent. The Trial in suit commenced as early as September 2022. At this stage, the petitioner filed an application in I.A.No.1 of 2022 to receive the additional documents and the same was allowed. Subsequently, the petitioner was examined in chief and Exs.A1 - A15 were marked. Again the petitioner filed another application in I.A.No.2 of 2023 to receive documents and the same was also allowed. Thereafter the petitioner was again examined and Exs.A16 – A19 were marked. After closure of chief examination, the matter was posted for cross-examination of P.W.1 on 11.10.2021. The petitioner failed to appear for cross-examination and filed application in I.A.No.3 of 2023 seeking appointment of an Advocate Commissioner. The same was dismissed after contest on 30.07.2024.

3.The petitioner again filed another application in I.A.No.4 of 2024 to reopen her evidence for marking further documents and the same was also allowed on payment of cost. Despite several opportunities, the petitioner failed to appear for examination and filed instant application seeking to eschew the evidence already recorded. The same was dismissed by the Trial Court narrating



the facts mentioned above. Aggrieved by the same, the petitioner has come before this Court.

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4. When the Civil Revision Petition came up for hearing in the morning, there was no representation for the petitioner. In order to give an opportunity to petitioner, the matter is passed over. Even in the afternoon, there is no representation for the petitioner. Hence, after perusing the typed set of papers, this Court is inclined to dispose of the Revision.

5. It is seen from the typed set of papers, the petitioner was examined in chief 3 years back and she filed several petitions to raise additional evidence, seeking appointment of the Advocate Commissioner, to reopen the case, etc. All these applications were allowed. Even after 3 years, the petitioner has not come before the Trial Court for further examination. In the affidavit filed by the petitioner in support of the petition to eschew the evidence, it was stated that after demise of her husband, she was mentally and physically affected and hence, she is unable to attend the Court due to ill-health. It is further stated that the evidence already recorded may be eschewed and petitioner may be given permission to give the evidence through her son.



6. In order to substantiate the inability of the petitioner, no documents have been marked before the Trial Court. However, it appears at the time of arguments, some medical certificate was produced and the Trial Court which perused the certificate recorded that there was significant improvement in the health of the petitioner. In these circumstances, the petitioner cannot seek eschewing of the evidence which was already recorded. The evidence recorded in the judicial proceedings can be eschewed only on valid grounds and it cannot be done for mere asking. The Trial Court rightly dismissed the application filed by the revision petitioner as she failed to establish that she was prevented from giving evidence due to disability allegedly suffered by her. I do not find any error in the impugned order.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05-12-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GSA



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To
The Additional District Munsif,
Alandur.



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S.SOUNTCHAR, J.

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