



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.1924 of 2025

and

C.M.P.(MD)No.10952 of 2025

Shanthi

...Petitioner

Vs.

Padmavathy

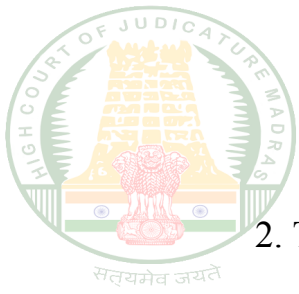
...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the impugned fair and decreetal order dated 31.01.2025 made in I.A.No.2 of 2024 in O.S.No.698 of 2019 on the file of the Additional Subordinate Court, Karur, by allowing this Civil Revision Petition.

For Petitioner : Mr.J.Sathiaraj

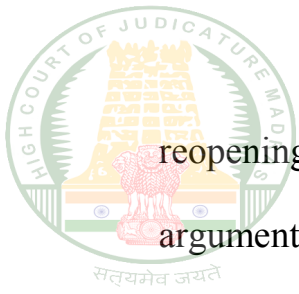
ORDER

This Civil Revision Petition has been filed seeking orders to set aside the fair and decreetal order dated 31.01.2025 passed in I.A.No.2 of 2024 in O.S.No. 698 of 2019 on the file of the Additional Subordinate Court, Karur.



2. The petitioner herein is the plaintiff in O.S.No.698 of 2019 filed before the learned Subordinate Judge, Karur, seeking a direction to the respondent to pay a sum of Rs.2,57,670/- with subsequent interest and costs. During the course of trial, the respondent, appearing as party-in-person, filed a written statement and completed the cross-examination of PW1 to PW3. Subsequently, the evidence for the plaintiff was closed. Thereafter, the respondent filed I.A.No.2 of 2024 seeking to recall PW1 to PW3 for further cross-examination, contending that he lacked legal expertise and has now sought assistance through a legal aid counsel for effective cross-examination. The trial Court allowed the said interlocutory application on 31.01.2025. Challenging that order, the present revision has been filed.

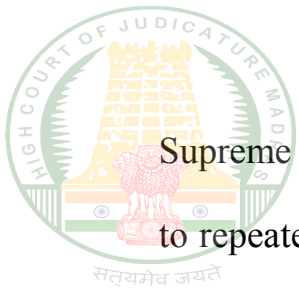
3. The learned counsel for the petitioner contended that the respondent, though a party-in-person, actively participated in the proceedings, including the cross-examination of PW1 to PW3, and also filed a written statement on his own. He further submitted that the respondent had already faced proceedings under Section 138 of the Negotiable Instruments Act, initiated by the petitioner, and the same ended in conviction. Thus, the respondent is well-versed in legal proceedings and the plea of seeking legal aid at a belated stage is only to delay the trial. He further argued that the application for recall was not accompanied by an application to reopen the plaintiff's side evidence, and as such, without



reopening, the recall application is not maintainable in law. In support of his arguments, he relied on the decision of the Hon'ble Supreme Court in

Shubhkaran Singh Vs. Abhayraj Singh and others [SLP (C) Nos. 12012-12013/2025, dated 05.05.2025] wherein the Court dismissed the plea for similar relief on the ground of delay and abuse of process.

4. It is not in dispute that the respondent appeared as party-in-person and cross-examined PW1 to PW3. It is also undisputed that the evidence on the side of the plaintiff was closed before the filing of the interlocutory application in I.A.No.2 of 2024. However, the core reason for filing the recall petition is the respondent's subsequent realization that he lacks adequate legal knowledge and desires the assistance of a legal aid counsel to conduct further cross-examination to ensure justice. The trial Court, after evaluating the application, found the request to be bona fide and exercised its discretion to allow the recall of PW1 to PW3. The power to recall witnesses under Order VIII Rule 17 CPC r/w 151 CPC is discretionary and is intended to avoid failure of justice. Although procedural formalities such as filing of a reopening application are significant, the paramount consideration should be to ensure a fair trial. Denial of legal aid or adequate opportunity to a litigant, especially when he is unrepresented, may result in miscarriage of justice. The conduct of the respondent does not appear to be *mala fide*, and the trial Court has considered the circumstances in proper perspective. In Shubhkaran Singh's case, the



Supreme Court dismissed the SLP on facts specific to that case, particularly due to repeated delays and absence of due diligence. That case does not lay down a blanket proposition barring recall in every case where evidence is closed.

5. Hence, this Court finds no perversity or illegality in the order of the trial Court warranting interference under Article 227 of the Constitution.

6. In view of the above discussion, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The trial Court is directed to ensure that the respondent, through the legal aid counsel, completes the cross-examination of PW1 to PW3 within a period of three (3) weeks from the date of receipt of a copy of this order. Thereafter, the trial Court shall proceed to dispose of O.S.No.698 of 2019 on merits and in accordance with law within a period of one (1) year from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

16.07.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1.The Additional Sub Court, Karur.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(PD).(MD)No.1924 of 2



M.DHANDAPANI, J.

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C.R.P.(PD).(MD)No.1924 of 2025

16.07.2025