

I.A.No.8/2025
in
O.S.No.19/2014

D.D.26.03.2025.

Order Pronounced.

This petition has been filed by the petitioner/plaintiff to eschew the evidence of Dw1 since, Dw1 died after cross examination in part.

2. Dw1 was examined on 13.08.2019 and Ex.B1 to Ex.B20 were marked and he was cross examined on 05.09.2019 and Ex.A39 was marked during his cross examination. Thereafter, an application has been filed to scrap Ex.A39 in I.A.No.2/2019 and the same was dismissed on 14.11.2019.

3. However the respondent/ 1st defendant has preferred C.R.P. against the order passed in I.A.No.2/2019 and the C.R.P. disposal was recorded on 23.02.2022 and thereafter the case was pending for stamp duty penalty on Ex.A39 and the 1st defendant died on 13.12.2022 and the L.Rs. of Dw1 were impleaded and now the

petitioner/plaintiff seeks permission of this Court to eschew the evidence of the 1st defendant as Dw1. Dw1 was examined in chief and partly cross examined and one document was also marked during his cross examination. Under such circumstances, completely eschewing the evidence of Dw1 is not possible. Though the continuation of cross examination is not on the fault of the petitioner/plaintiff still the evidence of Dw1 cannot be eschewed. His evidence is relevant with limited restrictions and thereby this petition deserves to be dismissed.

4. In the result, this petition is dismissed. No cost.

Principal District Judge,
Perambalur.

