

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD) No.1609 of 2015 &

M.P.No.1 of 2015

Prakash

... Petitioner

v.

1.Ramiah
2.Vetriselvi
3.Thangaraj
4.A.V.Karthikeyan
5.Rajasundari
6.Sivasankari

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 28.01.2015 in I.A.No.814 of 2012 in O.S.No.300 of 2012 on the file of Additional District Munsif, Cuddalore.

For Petitioner : Mrs.Manjula Baskar

ORDER

Aggrieved over the fair and final order passed in I.A.No.814 of 2012 in O.S.No.300 of 2012 on the file of Additional District Munsif Court, Cuddalore. the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No. 300 of 2012 for permanent injunction. The said suit is being contested by the defendants on various grounds. In the said suit, the plaintiff filed an application in I.A.No.814 of 2012 under Order 26 Rule 9 of CPC seeking for appointment of an Advocate Commissioner to note down the physical features.

3. The case of the plaintiff is that he took the suit property on lease and put up the superstructure in the said property. However, the case of the plaintiff was disputed by the defendants.

4. When there is a dispute with regard to the alleged lease and the construction of the superstructure, the plaintiff has to establish his case only by oral and documentary evidences. The plaintiff cannot collect evidence through the Advocate Commissioner. That apart, the present suit was filed for permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the 'B' schedule property. Therefore, the question that arise for consideration in the suit is with regard to

possession and enjoyment of the suit property. That being the case, seeking for appointment of Advocate Commissioner is unwarranted. The Trial Court has rightly dismissed the application.

5. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2015

Index : No
Internet : Yes

Rj

To

The Additional District Munsif Court,
Cuddalore

M. DURAISWAMY,J.,

Rj

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