

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2911 of 2015 &

M.P.No.1 of 2015

A.Krishnan

... Petitioner

v.

1.T.Kanniyappa Mudaliar

2.K.Kumar

3.The Revenue Divisional Officer,
Ranipet, Vellore District.

4.The Tahsildar,
Arakkonam Taluk,
Vellore District.

5.The Head Surveyor,
Arakkonam Taluk,
Vellore District.

6.The Village Administrative Officer,
Makanipattu Village,
Chery Post, Arakkonam Taluk,
Vellore District.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 05.02.2015 made in I.A.No.509 of 2014 in O.S.No.67 of 2009 on the file of learned District Munsif Court, Sholinghur.

For Petitioner : Mr.V.Muralidaran_

O R D E R

Challenging the fair and final order passed in I.A.No.509 of 2014 in O.S.No.67 of 2009, on the file of District Munsif Court, Sholinghur, the 1st defendant has filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No. 67 of 2009 for permanent injunction. The defendants filed their written statement and are contesting the suit. Earlier, at the instance of the plaintiffs, an Advocate Commissioner was appointed in I.A.No.107 of 1999 and the Advocate Commissioner also filed his report before the Trial Court, for which, the 1st defendant also filed his objections. Now, after a lapse of 5 years, the 1st defendant filed the application in I.A.No.509 of 2014 seeking for appointment of an Advocate Commissioner and to scrap the earlier report.

3. In the suit permanent injunction, the question that has to be

decided in the suit is with regard to possession of the properties. It is needless to say that the burden of proof lies on the plaintiffs to establish their case by oral and documentary evidences. A party cannot collect evidence through Advocate Commissioner.

4. When the earlier report is available before the Trial Court and the 1st defendant also filed his objections to the Commissioner's report, I do not find any necessity seeking for appointment of Advocate Commissioner for the second time and to scrap the earlier report. The Trial Court, taking into consideration all these aspects, rightly dismissed the suit.

5. In view of the above, 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. The Trial Court shall take into consideration the the earlier report filed in I.A.No.107 of 1999 and the objections filed by the 1st defendant at the time of deciding the suit.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

24.07.2015

Rj

To

The District Munsif Court,
Sholinghur.

M. DURAISWAMY,J.,

Rj

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