

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2938 of 2015 &

M.P.No.1 of 2015

Govindhan

... Petitioner

v.

Kalaiselvi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 25.06.2015 made in I.A.No.1076 of 2015 in O.S.No.207 of 2012 on the file of II Additional District Munsif Court, Kallakurichi.

For Petitioner : Mr.R.Kumaravel

O R D E R

Aggrieved over the fair and final order passed in I.A.No.1076 of 2015 in O.S.No.207 of 2012 on the file of II Additional District Munsif Court, Kallakurichi, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.207 of 2012 for permanent injunction. The defendant filed her written statement and is contesting the suit. In the year 2015, the plaintiff filed an application in I.A.No.1076 of 2015, seeking for appointment of an Advocate Commissioner to note down the physical features. The defendant filed her counter and opposed the application.

3. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that there is no necessity for appointment of the Advocate Commissioner.

4. It is settled position that a party cannot collect evidence through Advocate Commissioner. The plaintiff has to establish his case by oral and documentary evidences.

5. While dismissing the application, the Trial Court also observed that

the question that has to be decided in the present application is with regard to possession of the property and therefore, there is no necessity for the appointment of Advocate Commissioner. The averment stated in the affidavit filed in support of the application has to be proved by oral and documentary evidences and the Advocate Commissioner cannot collect evidence on behalf of the plaintiff. In these circumstances, the Trial Court has rightly dismissed the application.

6. 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. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

23.07.2015

Rj

To

The II Additional District Munsif Court,
Kallakurichi.

M. DURAISWAMY,J.,

Rj

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