

In the High Court of Judicature at Madras

Date : 01.09.2015

Coram :

The Hon'ble Mr. Justice D. Hariparanthaman

C.R.P. No: 3354 of 2015

Subramani
S/o. Kuppanna Chettiyar
8/5 Karungalpalayam
46 Pudur Post
Erode District. ... Petitioner/Plaintiff

-vs-

Ramasamy
S/o. Sengoda Gounder
Subbaraya Valasu
46 Pudur Village
Erode District. ... Respondent/Defendant

Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and final order dated 06.03.2015 passed in I.A. No: 147 of 2015 in I.A. No: 995 of 2010 in O.S. No: 610 of 2010 on the file of the 1st Additional District Munsif Court, Erode District.

For petitioner :: M/s. I.C. Vasudevan

O R D E R

सत्यमेव जयते

The revision petitioner is the plaintiff in O.S. No: 610 of 2010 on the file of the First Additional Munsif Court, Erode. The respondent herein is the defendant in the suit.

2. The revision petitioner / plaintiff filed I.A. No: 995 of 2010 for appointment of an advocate commissioner in O.S. No: 610 of 2010. The said application was allowed and an advocate was appointed as advocate commissioner. The advocate commissioner submitted an interim report. However, before submitting his final report, he became a Member of the District Consumer Forum. In these circumstances, the trial Court issued notice to the Advocate Commissioner either to execute the warrant or to return the same. The Advocate Commissioner failed to do either of the same. The Trial Court, by an order dated 06.01.2015, closed I.A. No: 995 of 2010. Hence, the revision petitioner filed I.A. No: 147 of 2015 in I.A. No: 995 of 2010 in O.S. No: 610 of 2010 to re-open I.A. No:

995 of 2010. The Trial Court, passed an order on 06.03.2015, rejecting I.A. No: 147 of 2015 and hence, the present Civil Revision Petition.

3. Heard the learned counsel appearing for the revision petitioner. In this case, the trial Court thought it fit to appoint an advocate commissioner. If the advocate commissioner did not file the final report

then the trial Court ought to have re-opened the case and appointed an advocate commissioner afresh. Instead the trial Court had closed the application.

4. Prima facie, I am of the view that the trial Court committed an error in closing the application. In any event, I am inclined to dispose of this Civil Revision Petition by permitting the petitioner to make a fresh application for appointment of an advocate commissioner. Accordingly, the revision petitioner is permitted to make a fresh application and in the event of the petitioner filing such an application, the trial Court shall appoint an advocate commissioner afresh since the earlier Advocate Commissioner failed to file report. The Civil Revision Petition stands disposed of in the above terms. Connected miscellaneous petition is closed. There shall be no orders as to the costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

The Presiding Officer
1st Additional District Munsif
Erode District.

1 cc to M/s.Rishi S.Ahuja , Advocate Sr.No.47014
+1 cc to M/s.I.C.Vasudevan, Advocate, sr.47074 (05/10/2015)

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