

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.3794 of 2015 and
M.P.No.1 of 2015

G.Dhanasekar

... Petitioner

vs.

M.Nagaraj

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the fair and decreetal order dated 31.08.2015 passed in I.A.No.124 of 2015 in O.S.No.416 of 2013 on the file of Hon'ble Additional District Munsif Court, Poonamallee.

For Petitioner : Mr.D.Senthil Kumaar
For Respondent : Mr.C.Prabhakaran

ORDER

The revision petitioner is the defendant in O.S.No.416 of 2013 on the file of Additional District Munsif Court, Poonamallee. The details of the suit are not necessary for disposal of this revision petition.

2. The respondent/plaintiff filed I.A.No.124 of 2015 in O.S.No.416 of 2013 for appointment of Advocate Commissioner. The Trial Court allowed the said application on 31.08.2015. The said order is questioned in this revision petition.

3. Heard both sides.

4. It is useful to extract the following passage in the order dated 31.08.2015:-

"No doubt as contended by the respondent side appoint of Advocate Commissioner cannot be sought only for the purpose of strengthening the evidence of the respective parties. However, in view of the conflicting claims made by both the parties to the suit as to the possession of the suit property and alleged trespass etc., to have a prima-facie opinion it is felt that report of the said Advocate Commissioner may be helpful. Parties are reminded that no orders will be passed solely on the basis of the report of the Advocate Commissioner."

In view of the aforesaid reasoning of the trial Court, I am not inclined to interfere with the same.

5. The learned counsel for the petitioner has contended that the respondent herein sought to inspect the suit property stating that he has put up a thatched hut with brick built house in the suit property. The learned counsel for the petitioner has taken me through the objection raised by him in this regard. But the Trial Court was conscious while appointing the Advocate Commissioner and held as follows:-

"In view of the above, Mrs.D.Malini, Advocate is hereby appointed as Advocate Commissioner for verification and to note down the physical features of the suit properties

in the Survey Nos.90/4, 90/4C and 90/4A etc., on which claims have been made by the parties to the suit after perusal of the documents and Revenue records which may be produced by the respective parties. The remuneration of the said Commissioner is fixed as Rs.4000/- which shall be paid by the petitioner directly to the Commissioner."

6. Hence, the submission of the learned counsel for the petitioner has no basis. The revision petition fails and accordingly, the same stands dismissed. However, the petitioner is permitted to file objections to the Commissioner's report on or before 12.10.2015. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2015

Index : Yes/No

Note : Issue order copy on 06.10.2015

svki

To

The Additional District Munsif Court,
Poonamallee.

D.HARIPARANTHAMAN,J.,

svki

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