

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD) No.4513 of 2015

Periyasamy

... Petitioner

Vs.

1. Palaniammal
2. Chandrasekar
3. Rajendran
4. Kuppusamy
5. Sriram Murthy
6. Mrs.Muthuvedi

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 01.10.2015 made in I.A.SR.No.3194 of 2015 in OSA No.132 of 2015 on the file of District Munsif cum Judicial Magistrate Court, Pappireddipatti.

For Petitioner : Mr.R.Neelakandan

ORDER

By order dated 01.10.2015, the learned District Munsif cum Judicial Magistrate, Pappireddipatti, had rejected the application filed by the plaintiff in O.S.No.132 of 2015, seeking for appointment of an Advocate Commissioner. The trial Court had rejected the application, even without numbering the application on the ground that in a suit for permanent injunction, a Commissioner cannot be

appointed to note down the possession and enjoyment. Further, the trial Court observed that to prove his possession and enjoyment, a Commissioner cannot be appointed. Since, the trial Court had rejected the application even without numbering, I am of the view that the trial Court should have numbered the application and given an opportunity to the parties to put forth their case on merits.

2. In these circumstances, without expressing any opinion with regard to the merits of the case, I direct the learned District Munsif cum Judicial Magistrate, Pappireddipatti, to number the application in I.A.SR.No.3194 of 2015, and dispose of the same, after giving opportunity to both parties, on merits and in accordance with law, without being influenced by the observation may be the trial Court on 01.10.2015.

3. With these observations, the Civil Revision Petition is disposed of. No Costs.

04.12.2015

Index :No

Internet : Yes

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To

The District Munsif cum Judicial Magistrate, Pappireddipatti.

M.DURAIWAMY,J.,

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