



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2015

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) No.2552 of 2014

and

M.P. (MD) Nos.1 of 2014 and 1 of 2015

S.Sivasamy

.. Petitioner/Respondent/
Plaintiff

Vs.

K.Ponnusamy

... Respondent/Petitioner/
Defendant

Prayer: Petition is filed under Article 227 of the Constitution of India to call for records connected to the order dated 28.02.2014 in I.A.No.103 of 2014 in O.S.No.390 of 2013 on the file of the learned Additional District Munsif Court, Karur and set aside the same as illegal.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.B.Saravanan

ORDER

The plaintiff is the revision petitioner, challenging the appointment of an Advocate Commissioner at the instance of the defendant in a suit for declaration and for recovery of possession.

2. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

3. The appointment of the Advocate Commissioner is sought for to inspect the petition mentioned property and note down the physical features available there on. The petitioner had filed the application only by contending that the report of the Advocate Commissioner would not in any way assist the Court in the adjudication of the dispute between the parties.

4. The learned Additional District Munsif, Karur allowed the application, stating that the defendant had claimed right in the property, Since the plaintiff has asked for recovery of possession, it will be useful to appoint the Advocate Commissioner to note down the physical features of the property. In the order, the learned Additional District Munsif has mentioned that though the petitioner herein had filed his counter, there was no serious objection either in general or in particular about the appointment of the Advocate Commissioner and therefore, the application has been allowed.



5. A perusal of the counter affidavit, filed by the revision petitioner, shows that he is only stated that the report of the Advocate Commissioner in no way will help to find out who is in possession of the property and the appointment of the Advocate Commissioner to note down the physical features is unwarranted. Under these circumstances, the learned Additional District Munsif has allowed the application holding that the revision petitioner would not be seriously prejudiced by the appointment of the Advocate Commissioner. It is also stated that the Advocate Commissioner had already visited the property and served the copy of the report on the Counsel. In these circumstances, this court finds no reason to interfere with the order of the trial Court.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

The Additional District Munsif, Karur.

+1cc to M/S. B.Saravanan, Advocate in SR.No. 10118

TS/12.03.2015/2P-3C

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