



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

CRP(MD).No.205 of 2015 and M.P.(MD).No.1 of 2015

WEB COPY

Murugaesan

: Petitioner

Vs.

M/s. Asian Traders,
rep. through Partner C. Periyasamy
S/o. Chinnappa goundar

: Respondent

Prayer: This Civil Revision Petition against the petition and order passed in I.A.No.796 of 2014 in O.S.No.541 of 2014 dated 22.12.2014, on the file of the District Munsif Court, karur.

For Petitioner : Mr. H. Arumugam

For Respondent : Mr. M.P. Senthil

ORDER

The suit filed for permanent injunction restraining the defendant from forcibly evicting of the possession in the suit property, unless by due process of law. Along with the plaint, the plaintiff has also filed an application for appointment of Advocate Commissioner to fix the value of the suit property and other relevant features. The Commissioner was appointed, without issuing notice to the defendant ex parte. Challenging the same, the revision petitioner / defendant has come up with the above revision.

2. It is settled principles of law that in the suit for injunction no commissioner can be appointed for gathering evidence and report the factum of possession.

3. In this case, the plaintiff has averred that he is running business in the name and style of "Asian Traders" and he had improved the suit premises by erecting wood works, cupboard works and done interior decoration. It is further contended by the plaintiff that he has also invested several Lakhs of Rupees in the said improvement done for his business which are permanent one. Therefore, if the plaintiff is evicted by the defendant suddenly the business would be put to heavy loss. Therefore, he is seeking for appointment of Commissioner.

4. No doubt the Commissioner cannot be appointed for the purpose of the relief sought for by the plaintiff. If the plaintiff wants to establish the improvement done in the business and evaluate the stock he can do so by himself by means of other evidence. The Commissioner cannot be appointed for the purpose of gathering evidence.

5. Therefore, the order of ex parte Commissioner passed in I.A.No.796 of 2014 in O.S.No.541 of 2014 dated 22.12.2014 by the learned District Munsif Court, karur is set aside.



6. However, it is open to the plaintiff to establish any other method to note down the physical features and to evaluate the improvements done by him in the premises.

7. With the above direction, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To
The District Munsif, Karur.

+1cc to Mr.H.Arumugam,Advocate, SR.No.5821
+1cc to Mr.M.P.Senthil,Advocate, SR.No.5937

CRP(MD) .No.205 of 2015 and
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