



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2015

CORAM:

THE HONOURABLE Mr. JUSTICE K.K. SASIDHARAN

C.R.P.PD(MD)No.1013 of 2013

and

M.P. (MD)No.1 of 2013

WEB COPY

K.Natarajan

... Petitioner

Vs.

1.M.Chellappa

2.Meganathan

... Respondents

PRAYER: Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 07.02.2013 passed in I.A.No.1118 of 2012 in O.S.No.146 of 2008 on the file of the I Additional District Munsif Court, Tirunelveli.

For Petitioner : Mr.G.Venugopal

For Respondents : Mr.S.P.Maharajan

O R D E R

The petitioner filed an application in I.A.No.1118 of 2012 in O.S.No.146 of 2012 for appointment of Advocate Commissioner. The learned Trial Judge having found that Advocate Commissioner was appointed at the instance of the petitioner in another suit in O.S.No.200 of 2005 dismissed the application. The said order is under challenge in this Civil Revision Petition.

2.The factual matrix clearly shows that the respondents disputed the title claimed by the petitioner. The respondents also made a claim that they have put up a building and the said building is situated in their property. It is true that the Trial Court has appointed an Advocate Commissioner in O.S.No.200 of 2005. The said suit was filed against the vendor of the petitioner and that too in respect of larger extent.

3.The learned Trial Judge observed that it is for the petitioner to adduce evidence to prove his case and there is no need for appointment of Advocate Commissioner.

4.The petitioner filed the suit for declaration and recovery of possession. The identity of the property should be fixed by the Court. However, I am of the view that the matter requires appointment of Advocate Commissioner. The fact that the Advocate Commissioner was appointed in a connected suit in O.S.No.200 of 2005 cannot be a valid reason to reject the application filed by the



5. In the result, the order dated 07.02.2013 in I.A.No.1118 of 2012 is set aside. The application in I.A.No.118 of 2012 is allowed.

6. The learned Trial Judge is directed to appoint an Advocate Commissioner preferably the very same Advocate Commissioner, who was appointed in O.S.No.200 of 2005 for the purpose of inspection. It is open to the parties to submit work memos before the Advocate Commissioner. It is made clear that there is no need to keep the trial pending on account of the inspection by the Advocate Commissioner.

7. The Civil Revision Petition is allowed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(R)

/True Copy/

Sub-Assistant Registrar

To

The I Additional District Munsif Court, Tirunelveli.

+One cc to Mr.S.P.Maharajan, Advocate, SR.No.29023

+One cc to Mr.M.P.Senthil, Advocate, SR.No.29172

nbj

RL/4c- 9/7/2015

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