

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.142 of 2016

&

C.M.P.No.4703 of 2016

Sudha

.. Petitioner

vs.

Uma

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 17.11.2015 made in I.A.No.26 of 2015 in O.S.No.36 of 2013 on the file of the District Munsif cum Judicial Magistrate, Neyveli.

For Petitioner : Mr.V.Raghavachari

For Respondent : No appearance

ORDER

This revision arises out of an order of the trial Court dated 17.11.2015 made in I.A.No.26 of 2015 in O.S.No.36 of 2013 on the file of the District Munsif cum Judicial Magistrate, Neyveli.

2. The plaintiff in the original suit is the petitioner in the revision. He filed an application for appointment of an Advocate Commissioner to make local inspection of the suit property with an assistance of a Surveyor and submit a report and plan. The said application viz., I.A.No.26 of 2015 in O.S.No.36 of 2013 on the file of the trial Court was dismissed by the impugned order dated 17.11.2015. The said order is challenged in the present revision filed under Article 227 of the Constitution of India.

4. Though the respondent was served with the notice and her name has been printed in the cause list, she has not chosen to enter appearance in this revision either in person or through counsel. The submissions made by Mr.V.Raghavachari, learned counsel for the petitioner are heard. The impugned order and other materials produced in the form of typed set of papers are also perused.

5. The application filed by the revision petitioner/plaintiff has been dismissed by the trial court holding that neither the petition nor the supporting affidavit contains the particulars as to how the appointment of an Advocate Commissioner will help the Court to localising the issue and elucidate the matters in issue. The learned trial Judge chose to dismiss

the said application holding that the application came to be filed seeking appointment of an Advocate Commissioner with a bald statement that it has become necessary to do so. In view of the same, the learned counsel for the petitioner submits that the petitioner may be permitted to withdraw the Civil Revision Petition and at the same time, liberty may be granted to the petitioner to file a fresh petition for appointment of an Advocate Commissioner, which shall be supported by an affidavit containing all particulars necessary for the Court to decide whether the appointment of a Commissioner is necessary.

6. An endorsement to that effect has been made. The endorsement is recorded and the Civil Revision Petition is dismissed as withdrawn. Liberty is granted to the petitioner to file a fresh application for appointment of an Advocate Commissioner furnishing necessary particulars as to how the appointment of the Advocate Commissioner will help the Court in localising and elucidating the matters in issue. No costs. Consequently, the connected miscellaneous petition is closed.

13.04.2016

Index: Yes/No
Internet: yes/No
rg

P.R.SHIVAKUMAR.J.,
rg

To

The District Munsif cum Judicial Magistrate, Neyveli.

C.R.P (PD) Nos.142 of 2016 &
C.M.P.No.709 of 2016

13.04.2016