

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.147 of 2016
and C.M.P.No.719 of 2016

Victoria
W/o.Tharchuse,
Arasakuli Village,
Virudhachalam Taluk

... Petitioner

Vs

G.Maria Anthonyaraj
W/o.Kabiral,
Arasakuli Village,
Virudhachalam Taluk

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order in I.A.No.643 of 2013 in O.S.No.317 of 2013, dated 28.07.2015, on the file of Subordinate Judge, Virudhachalam.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.T.Sezhian for
Ms.R.Meenal

ORDER

Heard both sides.

2. The defendant in the original suit is the petitioner herein.
The respondent herein filed O.S.No.317 of 2013 on the file of the Sub

Court, Virudhachalam for specific performance based on the suit agreement of sale dated 05.01.2014. The property alleged to be agreed to be sold as per the agreement includes the land and building.

3. The suit is resisted by the petitioner herein / defendant denying the execution of the agreement itself. Expressing an apprehension that the petitioner herein / defendant may cause damages to the building and demolish the building, the respondent herein / plaintiff filed I.A.No.643 of 2013 for appointment of a Commissioner to note down the physical features of the suit property. The revision petitioner/defendant has made it clear in the counter affidavit that she is not going to demolish the building. Learned counsel for the revision petitioner submits that the said averment in the counter affidavit may be taken as an undertaking. In the light of the said submission, the need for appointing a Commissioner to visit the suit property and find the value of the superstructure vanishes. In view of the same, the order of the trial Court appointing a Commissioner is liable to be interfered with and set aside.

4. Accordingly, the Civil Revision Petition is allowed. The order of the trial Court dated 28.07.2015 is set aside. Application

No.643 of 2013 shall stand dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.03.2016

srn

To

The Subordinate Judge,
Vridhachalam.

P.R.SHIVAKUMAR, J

srn

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