

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.1914 of 2016

1.P.Sanjeev Kumar

2.P.Sundararajan

3.S.Yasotha

4.V.Prakash

5.V.Pathiban

6.R.Balakrishnan

7.P.R.V.Dhanraju

8.J.Gopalakrishnan

... Petitioners

Vs.

Sree Shirdi Saibhaba Matheswara Trust,

rep by its Managing Trustee

N.Dharmalingam

S/o.Narayanaswamy

Having its Registered Office at

Door No.B-9, R.K.N.Clave,

S.R.K.V.Post, Peruanaickenpalayam,

Coimbatore - 641 020.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India for directing the Principal Subordinate Judge, Coimbatore to dispose of the suit in O.S.No.1380 of 2014 on its file within a stipulated time.

For Petitioners : Mr.C.R.Prasanan

ORDER

The defendants in the suit in O.S.No.1380 of 2014 on the file of the Principal Subordinate Court, Coimbatore, have filed the above Civil Revision Petition to direct the trial Court to dispose of the suit within a stipulated time.

2.The respondent/plaintiff filed the suit in O.S.No.1380 of 2014 for declaration and injunction. The defendants filed their written statement and are contesting the suit.

3.In the said suit, the plaintiff filed an application in I.A.No.1156 of 2014 seeking for appointment of Advocate Commissioner. Since the defendants had no objection for allowing the application, the trial Court appointed an Advocate Commissioner with a direction to file report and plan by 19.12.2014. Thereafter, the matter is being adjourned periodically for filing the report of the Commissioner. On 10.07.2015, on a memo filed by the plaintiff, a Taluk Surveyor was appointed to assist the Commissioner in measuring the suit property. Thereafter, the matter was being adjourned from 15.07.2015 for issuance of fresh warrant to the Advocate Commissioner till this date. The Commissioner has not inspected the suit property and filed his report for more than one and a half years.

4.The learned counsel for the petitioners submitted that in view of the long pendency of the matter, the petitioners are put to hardship and prejudice.

5.Since the Commissioner has not inspected the property yet, inspite of the order being passed on 19.12.2014, I direct the trial Court to direct the Commissioner to file his report within one month from the date of receipt of a copy of this order. In the case of the Commissioner not interested in inspecting the property and filing the report, the warrant of commission issued to be Commissioner may be withdrawn and a fresh Commissioner can be appointed. After the filing of the report by the Commissioner in a month's time, the Principal Sub Judge, Coimbatore is directed to dispose of the suit in O.S.No.1380 of 2014, on merits and in accordance with law, within a period of four months from the date of filing of the report by the Advocate Commissioner.

6.With these observations, the Civil Revision Petition is disposed of.
No costs.

Index : No
Internet : Yes
va

23.06.2016

M.DURAIWAMY,J.
va

To

The Principal Subordinate Judge,
Coimbatore.

C.R.P.(NPD).No.1914 of 2016

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