

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.2108 OF 2016
AND CMP NO.11050 OF 2016

M/s.Mitra Industries
Rep. By its Moolchand Jain
No.4, Arunachala Eswaran Koil Street,
(Guru Kasi Maligai) Tondiarpet,
Chennai – 600 081.

... Petitioner

Versus

G.Krishnamurthy

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 10.06.2016 made in M.P.No.184 of 2016 in RCOP No.360 of 2014 on the file of the Learned X Small Causes Court, Chennai.

For Petitioner	:	Mr.G.Jeremiah
For Respondent	:	Mr.P.Gnanasekaran

ORDER

The respondent instituted a proceedings in RCOP No.360 of

2014, on the file of X Judge, Court of Small Causes, Chennai, against the petitioner praying for a decree of demolition and reconstruction of the petition schedule building.

2. Before the Trial Court, the petitioner filed an application in M.P.No.184 of 2016 for appointment of Advocate Commissioner on the ground that the industry is in possession of more extent than covered under the lease and as such, a report should be called for. The learned Trial Judge dismissed the said application. Feeling aggrieved, the petitioner has come up with this Civil Revision Petition.

3. The learned counsel for the petitioner contended that the petitioner is in possession of larger extent than the area covered in the schedule in RCOP No.360 of 2014. The petitioner, therefore took up an application before the Trial Court, for appointment of Advocate Commissioner. The learned Trial Judge, without ascertaining the nature of the application, dismissed the prayer for appointment of Advocate Commissioner and as such, the said order is liable to be set aside.

4. The learned counsel for the respondent supported the order passed by the learned Trial Judge.

5. The respondent initiated the proceedings in RCOP No.360 of 2014 for demolition and reconstruction. It is for the respondent to plead and prove that the condition of the building is such that it requires demolition and reconstruction. There is no question of appointment of Advocate Commissioner to measure the schedule property. I do not find any error or illegality in the order passed by the learned Trial Judge warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected civil miscellaneous petition is closed.

14.11.2016

TK

K.K.SASIDHARAN, J.

TK

To

The X Judge
Court of Small Causes
Chennai.

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