

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3044 of 2016 and
CMP.No.15397 of 2016

S.Maheswari

...Petitioner

versus

Subramani

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 24.08.2016 made in I.A.No.37 of 2016 in O.S.No.75 of 2013 on the file of District Munsif Court at Ranipet dismissing the above I.A.No.37 of 2016.

For Petitioner : Mr.K.Ramachandran

ORDER

The Trial Court appointed an Advocate Commissioner pursuant to the application filed by the respondent. The Commissioner was examined by the Court. The report and plan were marked. Thereafter, the petitioner filed an application in I.A.No.37 of 2016 for appointing another Advocate Commissioner to inspect the suit property and

measure the land. The application was dismissed by the learned Trial Judge. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that the Commissioner has made certain remarks on the merits of the matter and as such, the petitioner wanted another Commissioner to be appointed to inspect the property. According to the learned counsel, certain physical features were not taken note of by the Advocate Commissioner and it was only under such circumstances, the petitioner filed the application in I.A.No.37 of 2016.

3. There is no dispute that pursuant to the application filed by the respondent, the Trial Court appointed an Advocate Commissioner. The Advocate Commissioner after inspection submitted a detailed report along with the Sketch. The Commissioner was examined before the Court. The petitioner miserably failed to bring out any circumstance warranting appointment of another Commissioner. The learned Trial Judge was perfectly correct in dismissing the application for appointment of another Commissioner.

4. The learned counsel for the petitioner submitted that the learned Advocate Commissioner made certain observations on the merits of the matter. Such observations are not binding on the Court. It is for the Court to decide the matter on the basis of the case pleaded by the parties. I am therefore of the view that there is no basis for the apprehension raised by the petitioner.

5. The learned Trial Judge is directed to dispose of the suit on merits and as per law without in any way being influenced by the observations made by the learned Advocate Commissioner on the merits of the matter.

6. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2016

Index:Yes/No

svki

K.K.SASIDHARAN, J.

(svki)

To

The District Munsif Court at Ranipet.

C.R.P.(P.D.) No.3044 of 2016

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