

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE C.T. SELVAM

C.R.P.(PD)No. 4191 of 2013

and

M.P.No. 3 of 2013

Kalakshetra Foundation

Thiruvannamiyur

Chennai – 600 041.

...2nd Respondent/2nd Respondent/Revision
Petitioner

Vs .

1. S.Selvaraj ... Petitioner/Appellant/1st Respondent

2. The Estate Officer
Kalakshetra Foundation
Thiruvannamuyur
Chennai – 600 041. ... 1st Respondent/1st Respondent/2nd
Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 30.08.2013 passed in C.M.P.No. 539 of 2011 in C.M.A.No. 59 of 2010 by the Hon'ble Principal City Civil Judge allowing the application for appointment of Advocate Commissioner and consequently direct the First Appellate Court to dispose of the appeal within a time frame.

For Petitioner : Mr. S.Raghunathan

For 1st Respondent : Mr.S.Rajasekar

O R D E R

This revision challenges the order dated 30.08.2013 passed in C.M.P.No. 539 of 2011 in C.M.A.No. 59 of 2010 by the Hon'ble Principal City Civil Judge, allowing the application for appointment of Advocate Commissioner.

2. Heard learned counsel for petitioner and learned counsel for first respondent.

3. The revision petitioner, informing itself to be the owner of property occupied by the first respondent as its gardener, sought his eviction under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which was ordered on 10.02.2010 by the second respondent. The first respondent moved an appeal in C.M.A.No. 59 of 2010 on the file of learned Principal City Civil Judge, Chennai. Pending the appeal, he moved C.M.P.No. 539 of 2010 seeking appointment of Advocate Commissioner, contending that the property of the petitioner Kalakshetra Foundation was in S.No.182/3, whereas he was in

occupation of property at S.No.182/8. The Court below has allowed such application, against which, the petitioner Kalakshetra Foundation has moved the present revision.

4. On consideration of rival submissions and perusal of records, this Court finds that though the petitioner produced materials and extracted replies in the course of cross examination of 1st respondent towards making out a case of his being a permissive occupant, the show cause notice dated 26.10.2009 issued by the second respondent/Estate Officer, informs the extent of the land allegedly in occupation of the first respondent as 1,000 sq.ft., and speaks of 'floating area about 3,000 sq. ft., approximately'. The order of the second respondent dated 10.02.2010 which is under challenge in C.M.A.No. 59 of 2010 before the Principal City Civil Judge, Chennai, informs an extent of 10,000 sq.ft., which is an apparent error for 1,000 sq.ft. The order appointing the Advocate Commissioner, which is presently under challenge, is a most innocuous one whether the property in occupation of the first respondent falls in S.No. 182/3 or S.No. 182/8.

5. As the claim of the petitioner is that it is the owner of property in

S.No. 182/3 and it is the claim of the first respondent that he occupies property in S.No. 182/8, the appointment of Advocate Commissioner would go a long way in settling the issue. On such reasoning, this Court does not find any reason to interfere with the order under challenge.

6. Accordingly, this revision stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

7. Taking note of the position that this revision was filed in this Court on 31.10.2013 and over a period of almost three years, the proceeding in C.M.A.No. 59 of 2010 has been protracted, this Court directs the learned Principal judge, City Civil Court, Chennai to dispose of the said appeal as expeditiously as possible, in any event, within a period of one month from the date of receipt of a copy of this order.

vsg

04.07.2016

Index: Yes/No

Internet: Yes/No

Note : Issue order copy on 22.07.2016

To

Principal City Civil Court,
Chennai.

C.T. SELVAM J.,

vsg

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