



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

CRP(PD) (MD) .No.1772 of 2016

and

CMP(MD) .No.8549 of 2016

Krishammal

(rep. through her power agent  
and son Palani)

: Petitioner / Plaintiff

Vs.

1. Sankaralingam

2. Muthukannan

3. Muthubalakrishnan

: Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 02.02.2016 passed by the learned Principal District Munsif, Tenkasi in I.A.No.1741 of 2015 in O.S.No.518 of 2015 and has to set aside.

For Petitioner

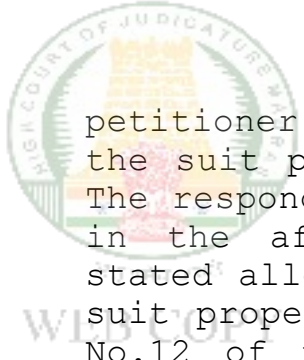
: Mr. A. Haja Mohideen

### ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 02.02.2016, made in I.A.No.1741 of 2015 in O.S.No.518 of 2015 passed by the learned Principal District Munsif, Tenkasi.

2. The revision petitioner filed a suit in O.S.No.518 of 2015 for declaration and permanent injunction. In the above said suit, the petitioner filed I.A.No.1741 of 2015 to appoint an Advocate Commissioner to inspect the suit property and to submit a report along with plan, before the trial Court and the said application was dismissed by the trial Court on 02.02.2016. Aggrieved by the said order, the petitioner has approached this Court by filing the present revision.

3. According to the petitioner, the respondents herein are <https://hcservices.courts.gov.in/hcservices/> of the property and the allegation against the respondents is that the respondents are attempting to construct a building in the suit schedule property. Therefore, the



petitioner seeks to appoint an Advocate Commissioner to inspect the suit property and to submit a report before the Court below. The respondents filed counter affidavit before the Court below and in the aforesaid counter affidavit, the respondents have not stated allegations with regard to construction of building in the suit property. However, the trial Court has observed in Para. No.12 of the order, wherein it is stated that the respondents herein have constructed a building in the suit property. Therefore, the averments made in the affidavit filed by the petitioner in Interlocutory Application, for appointment of Advocate Commissioner was not considered and therefore, the present civil revision petition.

4. I have heard the learned counsel appearing for the petitioner and perused the impugned order passed by the trial Court. It is an admitted fact that in the operative portion of the order, the trial Court has observed that respondents herein are not disputing the building constructed in the suit property. Further, the trial Court has also observed that the petitioner has not furnished the particulars of Survey numbers in the petitions. Therefore, the interim prayer for appointment of Advocate Commissioner is rejected. Hence, there is no warranting to interfere with order passed by the Trial Court in light of the finding in the instant Interlocutory Application.

5. In the result, the Civil revision petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif, Tenkasi.

+1 cc to M/s.A.Haja Mohedeen, Advocate in SR.No.51413/2016

trp

CSL/SKS-RR/19.10.2016: 2p/3c

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