



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.455 of 2016 and C.M.P(MD).No.1967 of 2016

Pakeer Mohamed : Revision Petitioner / Tenant
Vs.

Somasekar : Respondent/Landlord

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 20.01.2016 made in I.A.No.133 of 2015 in RCOP.No.5 of 2015 on the file of the learned Principal District Munsif Cum Judicial Magistrate, Karaikudi.

For Petitioner : Mr.M.P. Senthil

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated, 20.01.2016 made in I.A.No.133 of 2015 in RCOP.No.5 of 2015, on the file of the learned Principal District Munsif Cum Judicial Magistrate, Karaikudi.

2. The revision petitioner is the tenant. The respondent is the landlord.

3. The respondent / landlord filed RCOP.No.5 of 2015 on the file of learned Principal District Munsif Cum Judicial Magistrate, Karaikudi, for eviction on the ground of owners occupation and demolition and re-construction. He has also filed I.A.No.133 of 2015 for appointment of Advocate Commissioner. The petitioner did not object the appointment of Advocate Commissioner and he submitted that Advocate Commissioner must take assistance of Public Works Department Engineer not by private Engineer. The learned Judge considering the facts and circumstances and materials on record appointed Advocate Commissioner and directed him to inspect the suit property and file his report with the help of qualified Engineer and photographer and the Advocate commissioner was directed to give notice to both parties, before inspecting the properties. Against that, the present revision is filed.

4. The learned counsel for the petitioner submitted that the learned Judge failed to see that if the Advocate Commissioner inspect the property with the help of the private Engineer, he will give favourable report to the respondent only. He further contended that the learned Judge did not consider the contention of the petitioner that the Advocate Commissioner can inspect the property and file his report only with the assistance of the Public Works Department Engineer.



5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials it is seen that the petitioner is not objecting to appointment of Advocate Commissioner to inspect the property along with the help of qualified Engineer and to file his report. Only objection is that, if an Engineer of respondent choice is allowed to inspect the property, along with Advocate Commissioner, he will give report favorable to the respondent only. The proper way to assess the condition of property is only by the report of the Public Works Department Engineer. The said contention of the learned counsel for the petitioner is untenable.

7. The learned Judge directed the Advocate Commissioner to inspect the property with the help of qualified Engineer and photographer. There is nothing on record in the order that Advocate Commissioner has to take the help of the qualified Engineer on respondent choice. In the circumstances, the petitioner has come out with the present petition only on apprehension that Advocate Commissioner will take help of the qualified Engineer on the choice of the respondent.

8. The Civil Revision Petition is disposed of directing the Advocate Commissioner to inspect the property with the help of qualified Engineer independently and file his report. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif Cum Judicial Magistrate, Karaikudi.

+1cc to Mr.M.P.Senthil, Advocate SR.No.11106

sm:SKS-RR:08.03.2016:2P/3c

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