

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1880 of 2017
and
C.M.P.No.9067 of 2017

R.K.Perumal Gounder (Deceased)
P. Natarjan

.. Petitioner

Vs.

1. Guruswamy Gounder
2. Thangavel
Respondents

..

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Order dated 20.1.2017 made in I.A.No.998 of 2016 in O.S.No.74 of 2009 on the file of the District Munsif Court, Gobichettipalayam.

For Petitioner : Mr.A.Veerasamy

ORDER

This Civil Revision Petition has been filed against the Order dated 20.1.2017 made in I.A.No.998 of 2016 in O.S.No.74 of 2009 on the file of the District Munsif Court, Gobichettipalayam.

2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.74 of 2009. The petitioner filed O.S.No.74 of 2009 on the file of the District Munsif Court, Gobichettipalayam for declaration and injunction. The respondents filed written statement on 07.09.2009 and are contesting the suit. The trial commenced, both parties let in evidence and closed their evidence. When the suit was posted for arguments, at that stage, the petitioner filed an application in I.A.No.998 of 2016 for appointment of an Advocate Commissioner to inspect and measure the cart track mentioned in suit property with help of Surveyor and to file his report.

3. The respondents filed counter and opposed the said application and submitted that there is no cart track and it is for the petitioner to prove the existence of the cart track through the documents by letting in oral and documentary evidence.

4. The learned Judge considering the averments made in the affidavit, counter affidavit, materials available on record and also considering the fact that the petitioner has earlier filed I.A.No.272 of 2009 for appointment of advocate commissioner and the said

application was allowed, commissioner was appointed to inspect the property and the Commissioner filed his report, the petitioner did not file any objection opposing the report, the said application was subsequently closed on 20.11.2009. Further, the learned Judge took note of the fact that the petitioner has filed number of applications and when the suit was posted for arguments, for the second time, the petitioner has come out with the present application for the very same prayer i.e., for appointment of Advocate Commissioner. In view of the said facts, the learned Judge dismissed the application.

5. Against the order of dismissal dated 20.01.2017 made in I.A.No.998 of 2016, the present civil revision petition is filed by the petitioner.

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

7. From the materials available on record, it is seen that the petitioner has already filed I.A.No.272 of 2009 for appointment of an advocate commissioner and advocate commissioner was

appointed and he inspected the property and filed the report. The petitioner did not file any objection to the report filed by the advocate commissioner. In view of the same, the present application, for appointment of Advocate Commissioner at the belated stage, when the suit is posted for arguments, is not maintainable and is devoid of merits. The learned Judge considering these facts dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 20.01.2017.

8. In the result, this Civil Revision Petition is not maintainable as the same is devoid of merits, hence this petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2017

Speaking Order/Non-speaking Order
Index :Yes/No
ssd/av

To

The District Munsif Court,
Gobichettipalayam.

V.M.VELUMANI, J.

ssd /av

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