

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMAINAM

C.R.P.(P.D.) No.2378 of 2014
and
M.P.No.1 of 2014

Gajendran

... Petitioner

Vs.

1.Kuppu

2.Muthu

3.Mala

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 07.01.2013 in unnumbered I.A...../2014 IN o.s.No.40 of 2013 on the file of the II Additional Sub Judge, Cuddalore.

For Petitioner : Mr.R.Gururaj

For Respondents: Mr.M.Yuva Raja

ORDER

The crux of the issue involved in this Civil Revision Petition is that the Revision Petitioner is the plaintiff in O.S.No.40 of 2013, which was filed for the relief of partition. During the pendency of the Suit, the plaintiff had filed an Interlocutory Application, seeking appointment of an Advocate Commissioner for the purpose of ascertaining the possession of the suit scheduled property. The trial Court categorically made a finding that the said Application was not maintainable, as an Advocate Commissioner cannot be appointed for collection of evidence.

2.On a reading of the affidavit filed in support of the Interlocutory Application, it is unambiguous that the Revision Petitioner intended to establish the possession of the suit property by way of collection of evidence through the Advocate Commissioner.

3.The Court cannot appoint an Advocate Commissioner in order to secure evidence which will support either of the parties. The parties to the Suit are bound to establish their respective case

through oral and documentary evidence and they cannot seek the assistance of the Court to appoint an Advocate Commissioner for the collection of evidence or to establish their case. In view of the same, this Court is not inclined to consider the grounds of Revision.

4. Accordingly, the order passed in unnumbered I.A.No..... of 2014 in O.S. No.40 of 2013, is confirmed and the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

24.02.2017

rpa

To

The learned II Additional Sub Judge, Cuddalore.

S.M.SUBRAMANIAM,J.

rpa

C.R.P.(P.D.) No. 2378 of 2014

24.02.2017

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