IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.353 of 2017
and
C.M.P.No.1586 of 2017

Selvaraj .. Petitioner

Vs.

1. Dhandapani
2. Sarangan .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 21.12.2016 made in I.A.No.851 of 2013 in O.S.No.215 of 2010 on the file of the Principal District Munsif Court, Villupuram.

For petitioner : Mr.C.Munusamy

ORDER

The plaintiff has filed this revision challenging the order refusing to appoint an Advocate Commissioner to examine him and cross-examine him.

2. The case of the revision petitioner/plaintiff is that he underwent a

by-pass surgery on 28.01.2013 and he is advised not to climb up stairs. On 04.09.2013, when he appeared before Court, he had breathing difficulties, and therefore, he wanted to have a Commissioner to be appointed for the purpose of examining him.

3. It is found by the trial Court that there is no supporting document or any medical certificate for the alleged breathing difficulty suffered by the revision petitioner on 04.09.2013. The learned trial Judge has also stated that the District Munsif Court, Villupuram, has got all public facilities like ramp, wheel-chair, etc., to enable the differently-abled persons to come to Court.

4. Further, the age of the petitioner is about 64 years as per the records. No document has been filed along with I.A., except the medical records that is now filed before this Court in the typed set of papers. Therefore, the apprehension of the revision petitioner/plaintiff that he may have a difficulty if he travels to the Court for the purpose of deposition, is unwarranted. The trial Court has rightly dismissed the application, which does not warrant any interference by this Court.

5. As the revision petitioner is the plaintiff, he is duty bound to appear before the Court in person and only then, the trial Court can see the demeanour of the party. In case the plaintiff has got any difficulty in deposing evidence in standing position for long time, it is open for him to

make a request to the learned Presiding Officer and seek permission to sit and depose his evidence. If such a request is made, the trial Court may consider the same and facilitate the petitioner to depose evidence at his ease.

6. With the above observations, the Civil Revision Petition is dismissed. No costs. C.M.P. is closed.

03.02.2017

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Copy to

The Principal District Munsif, Villupuram.

PUSHPA SATHYANARAYANA, J

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