

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD).No.4387 of 2017
and CMP.No.20874 of 2017

K.Kandasamy

..Petitioner

Vs.

Bakkiyam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 25.10.2017 and made in I.A.No.699 of 2017 in O.S.No.57 of 2009 on the file of the Subordinate Judge, Trichengode.

For petitioner : Mr.R.Marudhachalamurthy

WEB ORDER COPY

According to the revision petitioner, the respondent has filed a suit in OS.No.57 of 2009 for partition and separate possession. In the aforesaid suit, the trial was commenced and

posted for cross examination of plaintiff side witness. At this stage, the revision petitioner / the second defendant filed the present application seeking appointment of an Advocate Commissioner to note down the physical features of the property, as there is no mention about the house, well and the electric pump in the affidavit filed by the plaintiff / respondent. Without considering the contention of the revision petitioner, the trial court has erroneously dismissed the said application. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the instant application has been filed for appointment of an Advocate Commissioner in order to value property which has not been mentioned correctly in the plaint. Therefore, no prejudice would be caused to the respondent, if the application is allowed.

3. On perusal of the records, it seems that the suit was filed in the year of 2009 for partition and separate possession. At the time of cross examination of the plaintiff, the revision petitioner / the second defendant has filed the present application for appointment of Advocate Commissioner to ascertain the value mentioned in the plaint is correct or not. For the aforesaid reasons,

the petitioner cannot seek for Advocate Commissioner, after lapse of eight years, that too at the time of cross examination of the plaintiff. The petitioner has not chosen to file any application in the pre-trial stage. Therefore, there is no reasons adduced in the affidavit for filing belated application. Hence, this Court is not inclined to interfere with the orders passed by the court below. There is no perverse, illegality or infirmity in the order passed by the trial court.

4. In the result, the Civil Revision Petition fails and the same is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

12.12.2017

Speaking / Non Speaking order

Index :Yes/No

Internet :Yes/No

lok

WEB COPY

D.KRISHNAKUMAR.J,

lok

To
The Sub Ordinate Judge,
Tiruchengode.



CRP.(PD).No.4387 of 2017
and CMP.No.20874 of 2017

WEB COPY

12.12.2017