

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.556 of 2017
and
C.M.P.No.2829 of 2017

Bakthavatchalam Naidu

.. Petitioner

Vs.

1. Ayyasamy
2. Selvam

.. 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.485 of 2016 in O.S.No.249 of 2014 on the file of the Principal District Munsif Court, Tiruvannamalai.

For petitioner : Ms.G.Sumitra

ORDER

The plaintiff who was unsuccessful in obtaining an order for appointment of Advocate Commissioner in a suit for bare injunction, is the revision petitioner herein. The case of the revision petitioner/plaintiff is that there is a dispute/doubt with respect to the extent of the suit property. In

fact, patta of the suit property was standing in the name of the petitioner's brother, but the patta was granted to the petitioner in respect of 0.39.0 ares by mistake. Taking advantage of the above mistake in patta with regard to the extent of the suit property, the respondents/defendants have attempted to disturb the petitioner's possession in the suit property. Hence, the plaintiff is seeking appointment of Advocate Commissioner. The plaintiff is/are should be sure about the property, i.e. either as an owner of the same or as an occupant or as a trespasser, which alone has to be proved in the suit. The Commissioner cannot be appointed for making a roving enquiry to improve upon the case of the plaintiff. In such circumstances, the trial Court has rightly dismissed the application and also had mentioned that the application has been filed belatedly by the plaintiff without assigning any specific reason for the delay. Hence, the impugned order does not suffer from any infirmity and the same is hereby confirmed. The Civil Revision Petition is dismissed. No costs. C.M.P. is closed.

21.02.2017

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Copy to

The Principal District Munsif, Tiruvannamalai.

PUSHPA SATHYANARAYANA, J

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