

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.759 of 2017
and C.M.P.No.3776 of 2017

Sougoumar (Died)

1.Devanathane

2.S.Malini

3.S.Uma Mageswary

4.S.Ranga Pradeep Kumar

... Petitioners

Vs.

Raji

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.570 of 2015 in O.S.No.654 of 2006 dated 14.12.2016 on the file of the I Additional District Munsif Court, Puducherry.

For Petitioners : Mr.S.C.Vishwanth

ORDER

Challenging the fair and final order passed in I.A.No.570 of 2015 in O.S.No.654 of 2006 on the file of the I Additional District Munsif Court, Puducherry, the plaintiffs have filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.654 of 2006 for declaration, recovery of possession and for permanent injunction.

3.The defendant filed her written statement and is contesting the suit. In the said suit, the plaintiffs took out an application in I.A.No.570 of 2015 seeking for appointment of Advocate Commissioner to note down the physical features. The application filed by the plaintiffs seeking for appointment of Advocate Commissioner was opposed by the defendant stating that there is no necessity for appointment of an Advocate Commissioner. The trial Court, taking into consideration the case of both parties, dismissed the application finding that earlier on three occasions Advocate Commissioners were appointed. However, the Advocate Commissioners could not execute the warrant of commission. Further, the trial Court observed that the Commissioner applications are kept pending for more than eight years.

4.It is settled position that the plaintiffs have to establish their case by adducing proper evidence and they cannot collect evidence through Advocate Commissioner. When the suit was filed in the year 2003, even after a lapse of 13 years, the trial Court has not disposed of the suit. In these

circumstances, the observation of the trial Court that the appointment of Advocate Commissioner is unnecessary, is perfectly correct.

5.I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

06.03.2017

To

The I Additional District Munsif Court,
Puducherry.

M.DURAIWAMY,J.
va

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