

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.P.D.No.283 of 2015
and M.P.No.1 of 2015

R.Kolandaisamy

.. Petitioner

-Vs -

1. P.Thillaikkarasi

2. P.Palanisamy Gounder @ Mani Gounder

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 26.11.2014 passed by the learned I Additional District Munsif, Erode in I.A.No.498 of 2014 in O.S.No.288 of 2014.

For petitioner ... Mr.S.R.Balasubramaniam

For Respondents ... Mr.R.Bharanidharan

O R D E R

The plaintiff is the revision petitioner.

2. This revision is directed against the order dismissing the application for appointment of Advocate Commissioner, in a suit for bare injunction.

3. It is the case of the revision petitioner/plaintiff that the first respondent/first defendant has purchased a common half share in the suit property and that the defendants are likely to put up construction in the same. If the defendants are allowed to proceed with the work and put up permanent super structure, it will result in great injury and lead to multiplicity of proceedings. Therefore, the appointment of Commissioner is sought for. It is also stated that there is connected second appeal pending before this Court in S.A.Nos.1245 and 1246 of 2013. However, the said application was dismissed by the Court below. Hence, the revision.

4. Heard both sides.

5. In a suit for bare injunction, the factum of possession has to be gone into. Since the first respondent has purchased half share and that they have planned to put up a super structure, need not be a

reason for appointment of a Commission in a suit for injunction. Hence, the trial court has rightly dismissed the application. Even presuming that a Commission is appointed and a report is filed, it is only a piece of evidence, which the Court may either consider or reject. In a suit for injunction, such applications are filed only to delay the proceedings.

6. In view of the above, I do not find any infirmity in the order passed by the Court below. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.01.2017

vj2
Index: Yes/No
Internet: Yes

To

The I Additional District Munsif
Erode

PUSHPA SATHYANARAYANA.J

vj2

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