

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.60 of 2014
and M.P.No.1 of 2014

P.G.Murugesan

... Petitioner

Vs.

Advocates Bar Association Palcode
rep. by its present President
R.Murugesan, Advocate
Palacode.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the Principal District Court at Krishnagiri, dated 17.09.2013 in I.A.No.124 of 2013 in O.S.No.19 of 2013.

For Petitioner : Mr.P.Valliappan

For Respondent : Mrs.V.Srimathi

ORDER

Challenging the fair and final order passed in I.A.No.124 of 2013 in O.S.No.19 of 2013 on the file of Principal District Court, Krishnagiri, the plaintiff has filed the above civil revision petition.

2. The plaintiff filed a suit in O.S.No.19 of 2013 for declaration and permanent injunction. The defendant association filed the written statement and are contesting the suit. In the said suit, the plaintiff took up an application in I.A.No.124 of 2013 seeking for appointment of an Advocate Commissioner to note down the physical features. The application filed by the plaintiff was opposed by the defendant stating that there is no necessity for appointing an Advocate Commissioner. The trial Court taking into consideration the case of both the parties dismissed the petition, finding that the plaintiff is trying to collect evidence through the Advocate Commissioner.

3. It is settled position that an Advocate Commissioner cannot be appointed to collect evidence and the parties have to establish their case only by oral and documentary evidence. In the case on hand, the suit has been filed by the plaintiff for declaration and permanent injunction. So far as the injunction is concerned, the plaintiff has to establish his case with regard to his position by adducing oral and documentary evidence.

4. As rightly pointed out by the trial Court, a Commissioner cannot be appointed to collect evidence on behalf of the parties. The plaintiff has to prove his case by adducing evidence before the trial Court. 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, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes

22.03.2017

To

The Principal District Court,
Krishnagiri.

M.DURAIWAMY,J.
gms

C.R.P.(PD).No.60 of 2014

22.03.2017