

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3583 of 2016
& C.M.P.No.18287 of 2016

Kannammal

.. Petitioner

Vs.

1.Naghendiran
2.Saritha Kumar

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 08.09.2016 made in I.A.NO.589 of 2015 in O.S.No.113 of 2015 on the file of the learned District Munsif, Sathiyamangalam.

For Petitioner : Mr.S.Parthasarathy

For R1 : Mr.V.Anandhamurthy

For R2 : Mr.V.P.K.Gowtham

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 08.09.2016 made in I.A.NO.589 of 2015 in

O.S.No.113 of 2015 on the file of the learned District Munsif, Sathiyamangalam.

2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.113 of 2015. The petitioner filed the suit for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit property. Along with the suit the petitioner filed I.A.No.589 of 2015 for appointment of an Advocate Commissioner to inspect the suit property and note down the physical features of the suit property with the help of a Surveyor.

3. According to the petitioner, she is owner of the suit property. The respondents have illegally entered and encroached upon the petitioners' property and tried to take possession of the suit property on 25.05.2015 and the same was prevented by the petitioner. In the circumstances, it is necessary for appointment of an Advocate Commissioner to inspect the suit property.

4. The first respondent filed counter in I.A.No.589 of 2015 and opposed the said application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

6. Against the order of dismissal dated 08.09.2016 made in I.A.NO.589 of 2015, the present civil revision petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner and respondents and perused the materials available on record.

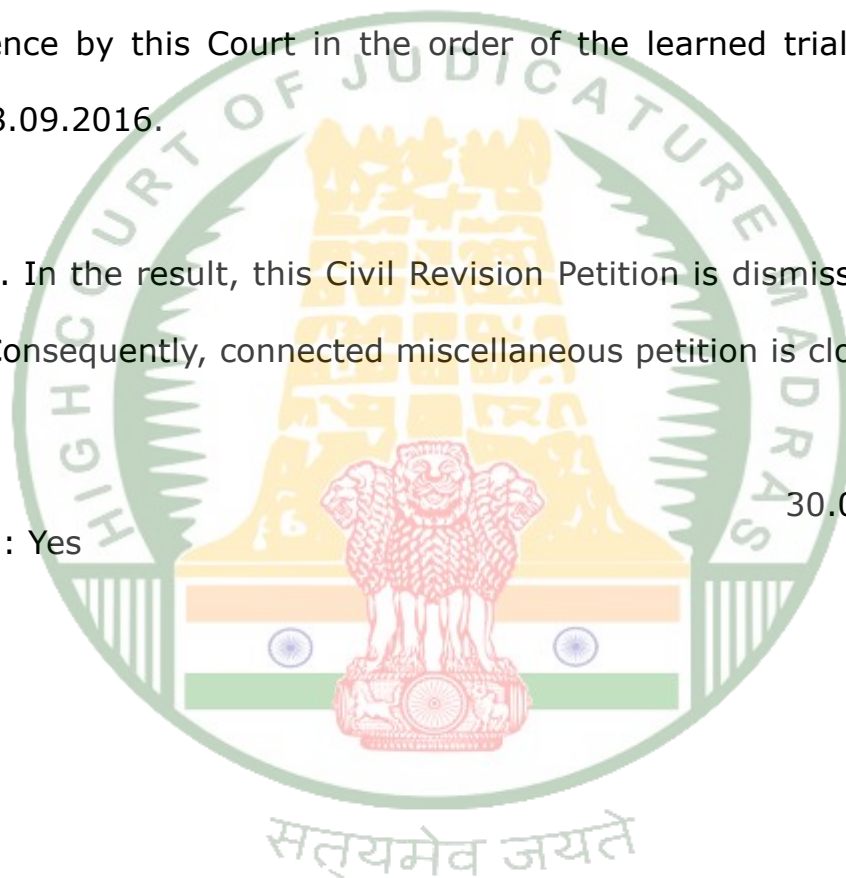
8. The suit filed by the petitioner is for permanent injunction. According to the petitioner, she is the owner of the suit property and she is in possession and enjoyment of the suit property and the defendants trespassed with an intention to grab the suit property and the said trespass was prevented by the petitioner. It is well settled that in a suit for injunction, it is for the plaintiff to prove his possession by letting in evidence. An Advocate Commissioner cannot be appointed to collect the evidence to find out as to who is in possession of the suit property.

9. In view of the above reasons, the learned Judge dismissed the application by giving cogent and valid reasons. In these circumstances, there is no illegality or irregularity warranting interference by this Court in the order of the learned trial Judge, dated 08.09.2016.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes
dm/jv

30.06.2017



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V.M.VELUMANI, J.

dm/jv

To

The District Munsif,
Sathiyamangalam.C.R.P.(PD)No.3583 of 2016
& C.M.P.No.18287 of 2016**WEB COPY**

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