

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.No.2914 of 2013
and
C.M.P. No.1 of 2013

Mr.D.K.Nanjundan ... Petitioner/Plaintiff

Vs

1.Mr.D.K.Palanisamy

2.The Assistant Engineer,
Tamil Nadu Electricity Board,
Thambad and Dhasanoor, Bujjanganur,
Mettupalayam Taluk.

3.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Karamadai.

... Respondents/Defendants

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of the learned District Munsif, Mettupalayam passed in I.A.No.438 of 2010 in O.S.No.205 of 2013 dated 03.01.2013.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.R.T.Doraisamy for R1

No appearance for R2 and R3

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O R D E R

This Civil Revision Petition is directed against the order dated 03.01.2013 in I.A.No.438 of 2010 in O.S.No.205 of 2003 on the file of the District Munsiff, Mettupalayam, appointing the Advocate Commissioner to inspect the suit property and to report about its physical features.

2.The learned counsel for the petitioner contended that the

Civil court earlier passed an order dated 03.11.2011 appointing an Advocate Commissioner. The first respondent was directed to pay a sum of Rs.2,000/- as cost to the petitioner. According to the learned counsel, cost was not paid pursuant to the earlier order and as such the learned Judge was not correct at a subsequent point of time to make another appointment.

3.The learned counsel for the respondent, on the other hand, submitted that the petitioner refused to receive the cost and that was the reason for approaching the court once again for appointment of Advocate Commissioner.

4. The documents available on record indicates that the Trial Court appointed an Advocate Commissioner, by order dated 03.11.2011. The first respondent was directed to pay a sum of Rs.2,000/- as cost to the petitioner. The petitioner admittedly refused to receive the cost amount. Subsequently, the first respondent moved the Trial Court and an Advocate Commissioner was appointed by order dated 03.01.2013. There was a mention in the order dated 03.01.2013 with respect to the order dated 03.11.2011 in I.A.No.438 of 2010. The petitioner for the reasons best known, failed to challenge the order dated 03.11.2011. The order dated 03.01.2013 is only a consequential order. There is no case made out by the petitioner to interfere in the order passed by the Trial Court.

5. The Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa/si

To

The District Munsif,
Mettupalayam.

+1cc to Mr.R.T.Doraisamy, Advocate SR.No.17791

+1cc to Mr.V.Viswanathan, Advocate SR.No.17819

C.R.P.No.2914 of 2013

GJ(CO)

GN(18/04/2017)