IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(NPD).No.958 of 2016

Sivaprakasam .. Petitioner

Vs.

1.Rajendran
2.Kumar
3.Kolanji

4.The Block Development Officer (Scheme)
Panchayat Union
Chinnaselam, Villupuram District.

5.C.M.Ashok Kumar
Advocate Commissioner
Advocate Kallakurichi
Thenkeeranur post, Kallakurichi Taluk
Villupuram District.

5th Respondent impleaded as parties
vide order of this Court
dated 03.08.2016 by MDJ, made in
C.M.P.No.11950 of 2016
in CRP.No.958 of 2016. .. Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.07.2015 in I.A.No.25 of 2008 in A.S.No.50 of 2008 on the file of

the Fast Track Court, III Additional District and Sessions Judge, Villupuram, at Kallakurichi.

For Petitioner : Mr.Sivaprakasam
party-in-person

For R1 to R5 : No appearance

O R D E R

Civil Revision Petition is filed against the fair and decreetal order dated 03.07.2015 in I.A.No.25 of 2008 in A.S.No.50 of 2008 on the file of the Fast Track Court, III Additional District and Sessions Judge, Villupuram, at Kallakurichi.

2.Though the respondents and the Advocate Commissioner were served with notice, no one represented on behalf of them and that the matter was posted today under the caption 'for orders'. Even today, there is no representation on behalf of the respondents.

3.Heard the learned counsel for the petitioner and perused the typed set of papers.

4.The petitioner as a plaintiff filed a suit in O.S.No.822 of

2001 for permanent injunction restraining the defendants from making any stone or brick constructions in the suit pathway and for mandatory injunction to demolish the constructions for the usage of the pathway by the public. After contest, the suit was dismissed, against which, the petitioner preferred an appeal in A.S.No.50 of 2008 and the same is pending. In the meanwhile, the petitioner has preferred I.A.No.25 of 2008, in which, Commissioner was appointed and he filed a report and then only, additional remuneration of Rs.6,000/- was awarded to the Advocate Commissioner. Challenging the same, the present revision is preferred by the petitioner for himself and the villagers of Vasudevanur.

5.On perusal of the typed set of papers, it reveals that Advocate Commissioner was appointed and a sum of Rs.2,000/- was awarded as his remuneration in the Commissioner application. The petitioner has paid the said amount. The Commissioner after filing report and plan, filed a memo seeking additional remuneration. In the application, the trial Court has fixed the additional remuneration of Rs.6,000/- and that has been challenged by the petitioner by way of this revision. As already

stated that though the notice has been served, the Advocate Commissioner has not chosen to appear. Hence, I am of the view that the Commissioner is not entitled any additional remuneration. Therefore, the order passed by the trial Court on 03.07.2015 for fixing the additional remuneration of Rs.6,000/- to the Advocate Commissioner is set aside. Accordingly, the revision is allowed.

6.In the result, the Civil Revision Petition stands allowed. No costs.

23.02.2017

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To
III Additional District and Sessions Judge
Fast Track Court, Villupuram, at Kallakurichi.

R.MALA,J.

Kj

C.R.P(NPD).No.958 of 2016

23.02.2017

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