

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP.No.2960 of 2012

and

M.P.No.1 of 2012

Periyamayan

.. Petitioner/Defendent

Vs.

Jayalakshmi

..Respondent/plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.104 of 2012 in O.S.No.35 of 2012, dated 23.07.2012, on the file of the Principal Subordinate Judge, Vridhachalam, thereby allowing the Petition filed by the respondent herein to appoint an Advocate Commissioner.

For Petitioner : Mr.Bharathachakravarthi
for M/s.Sai Bharath and Ila

For Respondent : No Appearance

O R D E R

This Civil Revision Petition has been filed, challenging the order passed in I.A.No.104 of 2012 in O.S.No.35 of 2012, dated 23.07.2012, on the file of the Principal Subordinate Judge, Vridhachalam, for appointment of an Advocate Commissioner.

2.The petitioner is the defendant in the suit. The learned Judge has passed the order of appointment of Advocate Commissioner, on the ground that the respondent has not filed counter and she was set exparte. Therefore, he passed an order for appointing Advocate Commissioner one Mr.R.Ravindran, Advocate.

3.The learned counsel appearing for the petitioner has

represented before this Court that it is suffice, if this Court is inclined to remand back the matter by giving an opportunity to the petitioner to file his counter and to putforth his case for fresh consideration. Therefore, he represented before this Court without arguing the case on merits and prayed for remand back the case to the trial Court.

4.Considering the nature of request and in compliance of principle of natural justice, this Court is inclined to remand back the matter to the trial Court namely, the Principal Subordinate Judge, Vridhachalam, for fresh consideration of the application in I.A.No.104 of 2012.

5.In the result:

(a) this civil revision petition is allowed, by setting aside the order passed in I.A.No.104 of 2012 in O.S.No.35 of 2012, dated 23.07.2012, by the Principal Subordinate Judge, Vridhachalam, and the matter is remanded back to the trial Court namely, the Principal Subordinate Judge, Vridhachalam, for fresh consideration.

(b) the petitioner, who is the respondent/defendant in I.A.No.104 of 2012 is permitted to file his counter within a period of two weeks from the date of receipt of a copy of this order and after filing the counter within the stipulated period of time, the learned Principal Subordinate Judge, Vridhachalam, is hereby directed to give notice to both sides and pass appropriate orders within a period of two months thereafter.

6.Accordingly, the Civil Revision Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vs

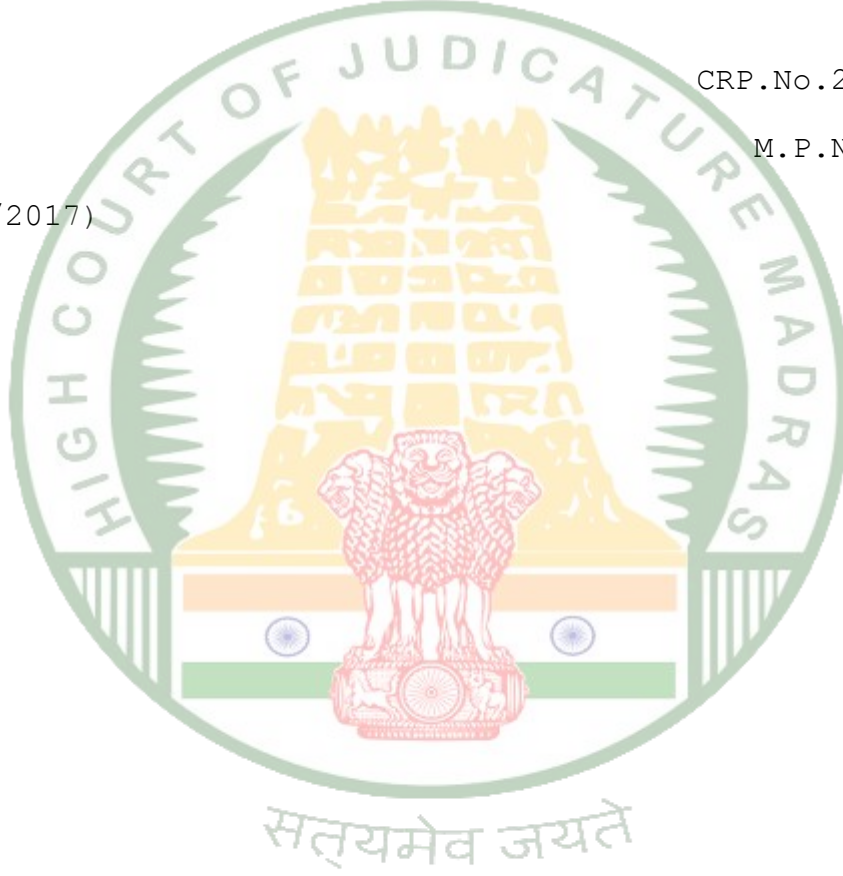
To

The Principal Subordinate Judge,
Vridhachalam.

The Section Officer, V.R. Section,
High Court, Madras.

CRP.No.2960 of 2012
and
M.P.No.1 of 2012

SKV(Co)
Vr (20/01/2017)



WEB COPY