



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.04.2017

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.P(MD)Nos.3982 and 3983 of 2017
in
C.R.P(MD)Nos.SR.12233 and 12236 of 2017

1. T.Francis Xavier
2. A.Jayaraj
3. Henry Prakasam

... Petitioners/Petitioners
in both petitions

Vs.

1. Maria Bastin Ramesh
2. Paulin
3. Tiruchirappalli City Corporation,
Rep. by its Executive Authority,
The Commissioner,
Tiruchirappalli.
4. The Assistant Commissioner,
Tiruchirappalli City Corporation,
K.Abishekapuram Zone,
Tiruchirappalli 620 017.

...Respondents/Respondents
in both petitions

Common Prayer in C.M.P(MD)Nos.3982 and 3983 of 2017: These Civil Miscellaneous Petitions are filed under Section 151 of CPC to dispense with production of the decreetal order dated 02.01.2017 made in I.A.Nos.1009 and 1010 of 2013 in O.S.No.1146 of 2013 on file of the learned Principal District Munsif, Trichy pending disposal of the civil revision petition.

Common Prayer in C.R.P.(MD).No.SR.12233 and 12236 of 2017: These Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.01.2017 made in I.A.Nos.1009 and 1010 of 2013 in O.S.No.1146 of 2013 on file of the learned Principal District Munsif, Trichy.

For Petitioner : Mr.K.Prabhakar in both petitions

COMMON ORDER

These Civil Miscellaneous petitions are filed to dispense with production of the decreetal order dated 02.01.2017 made in I.A.Nos.1009 and 1010 of 2013 in O.S.No.1146 of 2013 on file of the learned Principal District Munsif, Trichy, pending disposal of the civil revision petition.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Heard the learned counsel for the petitioner and perused



the materials placed before this Court.

3. When the matter is taken up for hearing, this Court posed a question to the learned counsel for the petitioner as to why these revision petitions are filed invoking the supervisory jurisdiction of the Court. The learned counsel for the petitioner submitted that the impugned order has scrapped the earlier Advocate Commissioner's Report and has allowed the petitioner to appoint a fresh advocate commissioner to inspect and note down the physical features with the help of a qualified surveyor. Since the earlier report of the Advocate Commissioner has recorded the physical features as it was at the time of filing the suit, it should not be scrapped. At the most, the new Commissioner can note down the present physical features and submit the report. He further submitted that instead of directing the earlier Advocate Commissioner to submit a supplementary report, the Trial Court has scrapped the earlier report which has caused great prejudice.

4. This Court on considering the impugned order finds that the Trial Court has rightly scrapped the earlier Commissioner's Report on two grounds. One the Commissioner has reportedly inspected the premises without due notice to the respondent. Secondly, when the Court has directed the Commissioner to inspect and measure the property with the help of a surveyor, contrary to the Court order, he has inspected the property without the help of the surveyor and has filed a preliminary report. This has made the Trial Court to scrap the earlier report. The reason for scrapping the earlier report has vividly explained and stated by the Trial Court in paragraph Nos. 8 and 9 of the impugned order. This Court finds no error in the order passed by the Trial Court appointing a fresh Advocate Commissioner for the reason stated in the impugned order. Hence, there is no necessity to interfere in the order under Article 227 of Constitution of India. Hence, these Civil Miscellaneous Petitions are dismissed and the Civil Revision Petitions are also dismissed at the SR stage itself. No Costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

TO

The Principal District Munsif,
Trichy.

CMP (MD) Nos. 3982 and 3983 of 2017
in

C.R.P (MD) No. SR12233 of 2017