



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) (PD)No.1121 of 2014

and

M.P. (MD)No.1 of 2014

J.Victor

... Petitioner/ Petitioner/
1st Defendant

Vs.

1. V.S.Sankar Raju

... 1st Respondent/1st Respondent
Plaintiff

2. Thoothukudi Naidu Mahajana Sangam Trust,
Through its Managing Trustee N.Lakshmanan,
S/o.Narayanan,
247, Palayamkottai Road,
1st Floor, Naidu Mahajana Sangam Building,
Thoothukudi.

... 2nd Respondent/2nd Respondent
2nd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the Principal District Munsif Court, Thoothukudi in I.A.No.369 of 2014 in O.S.No.234 of 2012, dated 01.04.2014.

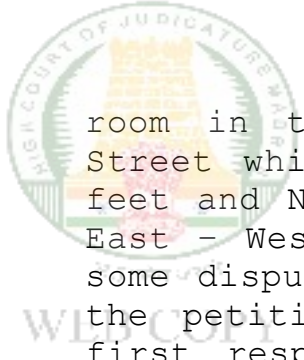
For Petitioner	: Mr.V.K.Vijayaraghavan
For R1	: Mr.G.Thiruvarulselvan
For R2	: Mr.S.Muthalraj

O R D E R

The Civil Revision Petition has been filed against the fair and decreetal order passed by the Principal District Munsif Court, Thoothukudi in I.A.No.369 of 2014 in O.S.No.234 of 2012, dated 01.04.2014.

2. The petitioner is the first defendant in the suit. The first respondent has filed the suit to declare that he is the lawful lease-holder of the second schedule property under the second respondent and directing the petitioner to put him in possession of the second schedule property as lease-holder of the same and also damages from the petitioner.

3. According to the petitioner, he is the actual lease agreement holder and in actual possession and enjoyment of the property and he would state that the first respondent/plaintiff has purposely not provided the clear description of the property. The petitioner further states that he is having a computer show



room in the premises bearing Door No.70-A, Balavinayagar Koil Street which contains ground floor measuring East - West 12.1/2 feet and North - South 24 feet and the upstairs portion measuring East - West 12. ½ feet and North - South 48 feet and there was some dispute in the measurement of the property and according to the petitioner, there is no such measurement as stated by the first respondent. At this juncture, in order to ascertain the measurement of the disputed building, he sought for appointment of an Advocate Commissioner.

4. The respondents through their counter would submit that the petitioner is not a lawful lease-holder and already an Advocate Commissioner has been appointed and the property was measured and a report was also filed in O.S.No.394 of 2004 in respect of the same schedule property. After considering the Commissioner's report, the trial Court has passed a decree in favour of the respondents and against which, the petitioner has filed an appeal in A.S.No.221 of 2005 before the Sub Court, Tuticorin, which was dismissed on 19.12.2010 and after the commencement of the trial, to protract the proceedings, the petitioner has filed the petition to appoint an Advocate Commissioner. After hearing both sides, the learned Judge has dismissed the petition to appoint the advocate commissioner. Against which, the present Civil Revision Petition has been filed.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that another suit in O.S.No.394 of 2004 in respect of the same schedule of property, commissioner was appointed and he would submit that it would be suffice if he is allowed to mark the commissioner's report in the above suit in the present suit. The leaned counsel appearing for the respondents would submit that he do not have any objection for marking the above report.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials available on record.

7. Considering the fact that the respondents have no objection for marking of the Commissioner's Report in O.S.No.394 of 2004 and also considering the fact that the matter is pending from 2005 onwards, the petitioner is directed to mark the Commissioner's report within a period of one week from the date of receipt of a copy of this order and the learned Principal District Munsif, Thoothukudi is directed to proceed with the suit in O.S.No.394 of 2004 and complete the proceedings within a period of six months from the date of receipt of a copy of this order.

<https://hcservices.courts.gov.in/hcservices/> Heard the learned counsel for the petitioner as well as the respondents would submit that the above said Commissioner's Report is part and parcel of the records in S.A.No.805 of 2017 which is



pending before this Court and therefore if necessary, the petitioner or the respondents are at liberty to apply for certified copy before this Court and mark it before the lower Court.

9. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Thoothukudi.

+1cc to Mr.G.Thiruvarulselvan, Advocate SR.No.90743

+1cc to Mr.S.Muthalraj, Advocate Sr.No.90825

+1cc to Mr.M.R.S. Prabhu, Advocate Sr.No.90980

AKV

VB/SV/MMS/SAR4/12/03/2018/3P/5C

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