



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**C.R.P. (MD) .No.540 of 2014 (PD) &
C.M.P. (MD) .No.1 of 2014**

Grace @ Parvatham .. Petitioner/Petitioner/Defendant

Vs.

C.Jayakanthan .. Respondent/Respondent/Plaintiff

Prayer: Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 03.12.2013 in I.A.No.230 of 2013 in O.S.No.161 of 2009 on the file of Sub Court, Pudukottai.

For Petitioner : Mr.N.Balakrishnan

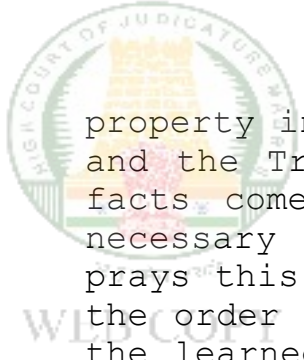
For Respondent : Mr.K.Balasundaram

ORDER

The petitioner is the defendant and the respondent is the plaintiff. The respondent/plaintiff filed a suit for specific performance in O.S.No.161 of 2009 on the file of Sub Court, Pudukkottai. Pending suit, the defendant filed an interlocutory application in I.A.No.230 of 2013 to appoint an Advocate Commissioner to determine the suit property. After hearing both sides, the learned Trial Judge dismissed the said application. Aggrieved against the said order, the petitioner is before this Court.

2. The learned counsel for the petitioner would submit that the respondent in no way be affected or prejudiced if an Advocate Commissioner is appointed. He would further submit that the appointment of Advocate Commissioner would only assist the Court in arriving at a just conclusion. The suit property is worth 20 times more than the value stated in the agreement for sale and therefore appointment of Advocate Commissioner is necessary to determine the correct value of the suit property. Therefore, he prays this Court for setting aside the impugned order and to appoint an Advocate Commissioner.

3. The learned counsel for the respondent would submit that appointment of Advocate Commissioner to determine the value of



property in a case of specific performance is not at all necessary and the Trial Court after taking into consideration of all these facts come to the conclusion that Advocate Commissioner is not necessary to decide the case on hand. Hence, the learned counsel prays this Court to dismiss the civil revision petition confirming the order of the learned Trial Judge. In support of his decision, the learned counsel relied on the decision of this Court reported in **(2008) Supreme (Mad) 76274 (Murugesan Vs. Jamuna Rani)**.

4. In a case on hand, what is to be decided is whether there is a valid sale agreement and whether the same has been acted upon, whether the plaintiff was always ready and willing to perform his part of the agreement and whether the plaintiff is entitled to the specific relief as prayed for. That being so, there is no necessity at all to appoint an Advocate Commissioner to determine the value of the property.

5. In view of the above reason and in view of the judgment referred above, I do not find any illegality in the order passed by the learned Trial Judge warranting interference by this Court. The civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Pudhukottai.

Copy to:

The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
Madurai-23.

+ 1 cc TO Mr.K.Balasundaram , Advocate in SR No. 87515

jikr

AE/SKN RSK/SAR4/22.12.2017/2P/4C

**Order made in
C.R.P. (MD) .No.540 of 2014 (PD) &
C.M.P. (MD) .No.1 of 2014
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