



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (PD) (MD) No.1401 of 2017

and

C.M.P. (MD) No.7020 of 2017

B.Sivakami

... Petitioner

-vs-

N.Muthulakshmi

... Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of Civil Procedure Code, to set aside the impugned rejection order passed by the learned 1st Additional Subordinate Judge, Madurai, Camp Court, Melur in I.A.No.unnumbered of 2016 in A.S.No.103 of 2011 dated 07.06.2016.

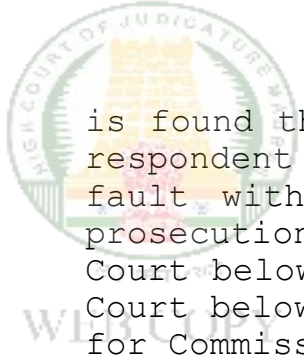
For Petitioner : Mr.C.M.Arumugam
For Respondent : No Appearance

ORDER

This Civil Revision Petition has been preferred against the impugned order dated 07.06.2016 passed in unnumbered I.A.No.....of 2016 in A.S.No.103 of 2011 on the file of the 1st Additional Subordinate Judge, Madurai, Camp Court, Melur.

2.It is found that the Court below has not taken the application on file and rejected the same on the footing that the earlier application preferred by the petitioner in I.A.No.127 of 2012 was not prosecuted by the petitioner properly and the same resulted in the Advocate Commissioner returning the warrant in the said application on 17.02.2016. In such view of the matter, the Court below finding that the petitioner had not properly executed the Court's order appointing the Commissioner in the earlier application preferred, had rejected the application.

3.However, it is found from the materials placed, I.A.No.127 of 2012 has been preferred only by the respondent herein and not by the petitioner and on account of lack of co-operation on part of the respondent, it is found that the Commissioner appointed in I.A.No.127 of 2012 was not able to execute the warrant and accordingly, returned the warrant. In such view of the matter, it



is found that the Court below has instead of finding fault with the respondent for the non-prosecution of I.A.No.127 of 2012, had found fault with the petitioner as if he is responsible for the non-prosecution of I.A.No.127 of 2012. Thus, the error committed by the Court below cannot be accepted and on that footing the order of the Court below in rejecting the application preferred by the petitioner for Commissioner cannot be sustained.

4.In the light of the above reasons, the impugned order is set aside and the Court below is directed to take the application on file and dispose of the same on merits and in accordance with law. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

The 1st Additional Subordinate Judge, Madurai,
Camp Court, Melur.

+ 1 CC TO Mr.C.M.ARUMUGAM, ADVOCATE IN SR No. 75914

MYR

TE/MR-KKR/SAR-III : 18/09/2017 : 2P/3C

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