



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P(PD) (MD)No.1450 of 2017

and

C.M.P. (MD)No.7511 of 2017

Dhivan Fatima

...Petitioner

-vs-

Bramma Nayagam

...Respondent

PRAYER: Civil Revision Petition is filed, Under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.06.2014 passed in I.A.No.594 of 2013 in O.S.No.79 of 2012 on the file of the Principal Sub Court, Tenkasi, Tirunelveli District in so far as the disallowed portion.

For Petitioner : Mr.R.J.Karthick

ORDER

The suit has been laid by the respondent / plaintiff for specific performance. Pending suit, it is found that the petitioner / defendant has preferred an application in I.A.No.594 of 2013 in O.S.No.79 of 2012 seeking for the appointment of an Advocate Commissioner to ascertain the value of the property involved in the suit with the help of an engineer and the guideline value. The said application was resisted by the respondent / plaintiff on the ground that the same has been preferred only with a view to delay the proceedings and for collection of evidence and inasmuch as the suit has been laid simpliciter for specific performance, the petition is not entitled for acceptance.

2.The Court below, on a consideration of the rival contentions put forth by the respective parties, found that there is no need for the appointment of an Advocate Commissioner as the same is not material for deciding the issues involved in the matter. Further, the Court below also found that it is for the petitioner to adduce evidence for the determination of the value of the property and establish his defence and cannot seek to sustain his defence by seeking the appointment of an Advocate Commissioner. Accordingly,



rejected the application preferred by the petitioner.

3.Considering the reasons given by the Court below in the impugned order, in my considered view also, it is found that there is no need for the appointment of an Advocate Commissioner for ascertaining the value of the property involved in the suit. To adduce evidence with reference to the value and succeed in her case respectively, therefore, under the guise of the appointment of an Advocate Commissioner, the petitioner cannot be allowed to collect evidence and therefore, it is found that the impugned order is perfect and does not warrant any interference. Resultantly, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Protocol)

/True copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Tenkasi, Tirunelveli.

+1 cc to Mr.R.J.Karthick , Advocate in SR.No. 72463

MYR

AE/JC/SAR3/24.08.2017/2P/3C

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