



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

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**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**CRP(NPD) (MD)No.2102 of 2017andC.M.P(MD)No.10463 of 2017

R.A.Rajan

... Petitioner

vs.

P.Shajakhan

... Respondent

Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order made in I.A.No.415/2017 in O.S.No.699/2011 dated 28.07.2017 on the file of Principal District Munsif, Tiruchirappalli.

For Petitioner

: Mr.M.Jahangirbaba

ORDER

This revision petition has been filed against the fair and decreetal order made in I.A.No.415/2017 in O.S.No.699/2011 dated 28.07.2017 on the file of Principal District Munsif, Tiruchirappalli.

2.The petitioner/plaintiff became a tenant under the defendant on a lease for a period of three years from 10.07.2009 and the lease amount was fixed at Rs.1,50,000/- and he is running a Sweet Stall by name, 'Amudham Sweets' from July 2009 onwards. While so, the respondent/defendant attempted to dispossess the petitioner from the suit property in the year 2011 and therefore, he filed a suit for bare injunction and an interim injunction was granted which was made absolute on 15.12.1997 in I.A.No.466/2011. Subsequently, according to the petitioner, the respondent/defendant sold the property to an extent of 15 x 70 = 1050 sq.ft out of 30 x 70 = 2100 sq ft to one Muniyandi and Chandran who are the owners of Venkateswara Sweets, Kattur, on 22.09.2011 with a view to dispossess him from the suit property. The said Muniyandi and Chandran have sold the property to the extent of 15 x 70 = 1050 sq.ft to Vennila Tea Stall owner who demolished the shop of the plaintiff on the western side in East-West to the extent of 3 feet out of 10 feet and raised a Hollow Block wall on the western side of his shop and also damaged the ceiling of his shop. In order to find out the damaged condition of the petitioner's shop and to highlight to the Court about the plight of the running of the business and also to note down newly built



hallow block wall inside the premises of the petitioner shop and also to note down the damaged ceiling, the petitioner sought for appointment of advocate commissioner which was dismissed by the Court below against which the present revision petition has been filed.

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3.The respondent contended that an Advocate Commissioner cannot be appointed to gather evidence and he also specifically stated that the petitioner is not doing any business muchless Sweet Stall which has been culled out in the cross-examination. It is also the specific case of the defendant that though an application was filed in I.A.No.115/2012 with the same averment, the same was dismissed by the Trial Court.

4.Heard the learned counsel for the petitioner and learned counsel for the respondent and perused the materials available on record.

5.On perusal of the records, it could be seen that I.A.No.151/2012 has been filed with the similar relief which was dismissed on merits on 21.07.2012 and the petitioner has not filed any appeal or revision against the dismissal order. For the same cause of action, the petitioner has filed the present application after a period of 4 years and therefore, the learned Judge has rightly dismissed the application. The present revision petition has been filed only to delay the proceedings and therefore, interference of this Court is not necessary in the present revision.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,  
Tiruchirappalli.

+1cc to M/s.M.JAHANGIR BABA Advocate in SR. No. 88377

BALA

JS/KP/SAR.4/8.12.2017/2P-3C

CRP (NPD) (MD) No.2102 of 2017

20.11.2017