



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.2246 of 2016 (PD)
& C.M.P. (MD) No.10418 of 2016

1.M/s.Gold Cottons,
A Registered Partnership Firm,
Rep. by its Partner,
K.Senthilkumar,
S/o.Kandasamy,
Having Office at No.1/276-B,
Salem Bypass Road,
Manmangalam,
Karur District.

2.Sivakami, W/o.Kandasamy

.. Petitioners

Vs.

1.State of Tamil Nadu,
Rep. by its District Collector,
Having Office at District
Collectorate Campus,
Karur.

2.The Handloom Officer (Liquidator),
O/o. The Assistant Director of
Handloom and Textiles,
No.63, Panchavarnasamy Koil Street,
Oraiur,
Trichy.

.. Respondents

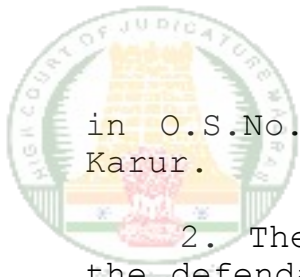
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 15.09.2016, passed in I.A.No.75 of 2016 in O.S.No.37 of 2016, by the learned Principal District Munsif, Karur.

For Petitioners : Mr.K.Prabhakar

For R1 : No Apperance

For R2 : Mr.N.S.Karthikeyan

ORDER



in O.S.No.37 of 2016, by the learned Principal District Munsif, Karur.

2. The petitioners are the plaintiffs and the respondents are the defendants in the suit in O.S.No.37 of 2016, on the file of the Principal District Munsif Court, Karur. The petitioners filed the suit for permanent injunction restraining the respondents from interfering with the petitioners' peaceful possession and enjoyment of the suit property as a tenant and not to evict them except due process of law. Along with the suit, the petitioners filed I.A.No.75 of 2016 under Order XXVI Rule 9 C.P.C., to appoint an Advocate Commissioner to inspect the suit property and note down the physical features and also to draw a plan with a further direction to the Advocate Commissioner to take appropriate photographs and file a detailed report. The learned Principal District Munsif, Karur, vide order dated 08.02.2016, appointed one Mr.P.Saravanan as Advocate Commissioner, directing him to inspect the suit property and file his report by 29.02.2016. The Advocate Commissioner inspected the suit property on 01.03.2016 after giving notice to the petitioners. Subsequently, he did not file his report and therefore, the said I.A. was kept pending. The second respondent filed written statement on 04.07.2016. When the said I.A. was taken up for hearing on 15.09.2016 for Advocate Commissioner's report and plan, there was no representation on behalf of the Advocate Commissioner. Hence, the learned Principal District Munsif, Karur, closed the said I.A.

3. Against the said order dated 15.09.2016, the petitioners have come out with the present Civil Revision Petition.

4. The learned counsel for the petitioners submitted that learned Principal District Munsif, Karur, failed to take into consideration the facts and circumstances of the case and the petitioners have been put to hardship for not filing of the report by the Advocate Commissioner after inspecting the suit property. He further submitted that no occasion had arisen for closing the application and the learned Principal District Munsif ought to have appointed a fresh Advocate Commissioner after directing the Advocate Commissioner to return the commission warrant and prayed for allowing the Civil Revision Petition.

5. The learned counsel for the second respondent submitted that the petitioners are in possession of the suit property as tenants and he has no objection for allowing the Civil Revision Petition and has also made an endorsement to that effect. He further submitted that a direction may be issued to the learned Principal District Munsif, Karur, to dispose the suit in O.S.No.37 of 2016 as expeditiously as possible.

6. I have considered the arguments of the learned counsel appearing for the petitioners and the endorsement made by the learned counsel for the second respondent and perused the materials



available on record.

7. The contention of the learned counsel for the petitioners is that the Advocate Commissioner inspected the suit property on 01.03.2016 and subsequently, he did not file the report. On 15.09.2016, the Advocate Commissioner was not present before the Court and due to that reason, the learned Principal District Munsif closed the I.A. The learned counsel for the second respondent has submitted that the second respondent has no objection for allowing this Civil Revision Petition. In the circumstances, the order dated 15.09.2016, passed in I.A.No.75 of 2016 in O.S.No.37 of 2016, is set aside and the I.A. is restored. The learned Principal District Munsif is directed to issue notice to the Advocate Commissioner and receive the report from him and to take the report on file and to dispose of the suit as expeditiously as possible, in any event, not later than 30.06.2017. Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd /-
ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Principal District Munsif,
Karur.
- 2.The District Collector,
Having Office at District
Collectorate Campus,
Karur.
- 3.The Handloom Officer (Liquidator),
O/o. The Assistant Director of
Handloom and Textiles,
No.63, Panchavarnasamy Koil Street,
Oraiur,
Trichy.

+1 CC TO MR. K.PRABHAR, SR NO.5941

MAS/SV-MMS:13.02.2017:3P/5C

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