



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2017

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P (PD) (MD) No. 997 of 2016

and

C.M.P (MD) No. 2670 of 2017

Veerappan

: Petitioner

vs.

Malaichamy

: Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order, dated 25.02.2016 made in I.A.No.455 of 2015 in O.S.No.96 of 2015 on the file of the District Munsif cum Judicial Magistrate, Vadipatti.

For Petitioners : Mr.PT.S.Narendera Vasan

For Respondent : Mr.T.C.S.Thilainayagam

O R D E R

The revision petition is directed against the dismissal of interlocutory application filed under Order 26, Rule 9 and Section 151 CPC, by the defendant to appoint an Advocate Commissioner to note down the physical feature based on the revenue documents.

2.The Trial Court has dismissed the application since the application as such is bereft of details.

3.Heard the learned counsels for the revision petitioner and the respondent.

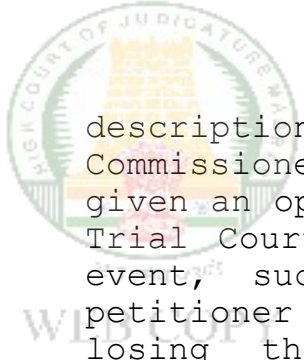
4.The learned counsel for the respondent pointed out that the prayer for appointment of Advocate Commissioner based on the revenue records can be done only, if enough detail is furnished by the party to inspect the property and file a report, since such information is lacking in the application, the Trial Court has rightly dismissed it.

5.However, he submitted that if a fresh application for appointment of Advocate Commissioner is filed with all details, the respondent may be given an opportunity to contest it on merits and thereafter, the Court can take an independent decision based on the request made by the revision petitioner.

6.Hence this Civil Revision Petition is disposed of with the following directions:-

<https://hcservices.ecourts.gov.in/hcservices/>

The revision petitioner is at liberty to file a fresh application under Order 26 Rule 9 with sufficient details and



description of documents to be taken note of by the Advocate Commissioner. If such application is filed, the respondent shall be given an opportunity to make his objection, if any. Thereafter, the Trial Court shall dispose of that application on merits. In any event, such an endeavour shall be exercised by the revision petitioner within a period of two months, failing which, he will be losing the opportunity of filing any application regarding appointment of Advocate Commissioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate,
Vadipatti.

+1 CC to M/s.T.C.S.THILLAI NAYAGAM, Advocate, SR No. 53239

+1 CC to M/s.PT.S.NARENDRAVASAN, Advocate, SR No. 53211

IA/LS

PSM/SV-MMS/SAR2/25.04.2017/2P/4C

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