

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP (PD) No.2210 of 2017

G.Narayanan

... Petitioner

Vs.

1.E.Palani

2.The Block Development Officer,
Walajabad,
Kanchipuram Taluk.

3.The President,
Elakkaimangalam Panchayat,
Elakkaimangalam Village,
Panruti Post,
Kanchipuram Taluk.

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order of the Learned Additional District Munsif, Kanchipuram in I.A.No.299 of 2016 in O.S.No.120 of 2012 dated 31.01.2017.

For Petitioner : Mr.M.R.Kuyilan

For R1 : Mr.S.Baskar

For R3 : No appearance

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ORDER

This Civil Revision Petition is filed against the fair and decreetal order of the Learned Additional District Munsif, Kanchipuram in I.A.No.299 of 2016 in O.S.No.120 of 2012 dated 31.01.2017.

2.According to the learned counsel for the petitioner, the petitioner/plaintiff has filed a suit in O.S.No.120 of 2012 on the file of the Additional District Munsif Court, Kanchipuram and in the said suit, he has also filed an application in I.A.No.741 of 2012 for appointment of an Advocate Commissioner. The said application was allowed on 25.10.2014. Thereafter, the petitioner has filed an application in I.A.No.299 of 2016 which is impugned in the Civil Revision Petition to re-open the petition filed for appointing the Advocate Commissioner in I.A.No.741 of 2012 which was closed on 25.10.2014.

3.According to the learned counsel for the petitioner, the first respondent has encroached the property and put up construction and therefore, the report of the Advocate Commissioner has proved the case of the petitioner. But, the Court below has dismissed the said application.

4.The learned Counsel appearing for the respondent would submit that the petitioner has filed the above suit for permanent injunction and also filed an application in I.A.No.741 of 2012. The said application was kept quite very long period since from the date of closing of the application and the suit is now in the stage of commencement of trial. He has further submitted that the petitioner was not taken any steps to reopen the said application, since from the date of closing of the application i.e., on 25.10.2014. But after completion of 19 months, the petitioner has filed the application in I.A.No.299 of 2016 to reopen the application in I.A.No.741 of 2012 only to drag on the proceedings of the suit. The petitioner can workout his remedy by producing necessary documents before the Court below. Hence seeks for dismissal of the present application.

5.Considering the above said fact, the petitioner has filed an application in I.A.No.741 of 2012 for appointment of an Advocate Commissioner and the said application was allowed and the same was closed on 25.10.2014, the petitioner, has not taken any steps to reopen the order of the Trial Court dated 25.10.2014 passed in I.A.No.741 of 2012 for more than 19 months and since no reason has

been stated for the aforesaid delay, this Court is not inclined to interfere with the order of the Court below. There is no error or illegality in the impugned order passed by the Court below and hence the Civil Revision petition is liable to be dismissed.

6.In fine, the order passed by the learned Additional District Munsif, Kanchipuram in I.A.No.299 of 2016 in O.S.No.120 of 2012 dated 31.01.2017 is confirmed and consequently, the Civil Revision Petition is dismissed. No costs.

15.02.2018

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Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No

Issue Order Copy on 02.05.2018

To

The Additional District Munsif,
Kanchipuram.

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D. KRISHNAKUMAR J.,

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