

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 29 of 2018
and
CMP. No.80 of 2018

S.Marigounder @ Marappan

.. Petitioner

Vs

V.Sathya

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and and decree passed in I.A.No.146 of 2016 in O.S.No.1312 of 2007 dated 12.07.2017 on the file of the learned II Additional District Munsif, salem.

For Petitioner :Mr.M.Devaraj

ORDER

The Civil Revision Petition is filed against the fair and and decree passed in I.A.No.146 of 2016 in O.S.No.1312 of 2007 dated 12.07.2017 on the file of the learned II Additional District Munsif, salem.

2. The learned counsel for the petitioner would submit that the respondent herein has filed the suit in O.S. No.1312 of 2007 for permanent injunction. Subsequently, filed an application in I.A.No.146 of 2016 for appointment of advocate commissioner. The Court below has dismissed the said application by stating that the petitioner was absent and no representation and also no application was filed under Order 83 of the Code of Civil Procedure for extension of time. Challenging the said order dated 12.07.2017, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner would submit that the Court below, without any notice to the advocate commissioner, has closed the application on 12.07.2017. The advocate commissioner was appointed and it is the duty of the advocate commissioner to file report within a stipulated time or to seek further extension of time by setting out the reason. The said Advocate Commissioner has not filed report within the time. Hence, the Court below has to recall the warrant and appoint another Advocate Commissioner to carry out the order passed by the Court below. Without considering the said fact, the Court below has closed the said application.

4. In view of the above facts and circumstances of the case, this Court is not inclined to allow the Civil Revision Petition. However, it is open to the revision petitioner to file an appropriate application before the court below to get necessary orders.

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

08.01.2018

Index: Yes/ No
Internet : Yes/No
Speaking Order/Non Speaking Order
RKP

Note: Issue order copy on 17.01.2018.

सत्यमेव जयते

WEB COPY

D. KRISHNAKUMAR J.,

RKP

To

The learned II Additional District Munsif
Salem.



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