

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.854 of 2018
and CMP.No.4707 of 2018

R.Haribabu

.. Petitioner

Vs

V.Jaya

.. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of IA.No.2859 of 2015 in OS.No.7878 of 2011 dated 20.10.2016 passed by learned XII Assistant City Civil Judge, Chennai for appointment of Advocate Commissioner to note down the physical features and allow the CRP.

For Petitioner : M/s.T.Lavanya

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. According to the revision petitioner, the respondent / plaintiff has filed an application in IA.No.2589 of 2015 in OS.No.7878 of 2011 on the file of the XII Assistant City Civil Court, Chennai for appointment of Advocate Commissioner to note down physical features of the alleged construction put up by the revision petitioner in the first and second floor over the 3 feet common passage and to submit the report. The said application was allowed by the court below. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioner would submit that the respondent has filed the suit for injunction. The court below has appointed Advocate Commissioner, without following the procedure as contemplated under the provisions. Therefore, the order of the court below is liable to be set aside.

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

5. On perusal of the materials on record, the respondent has filed the instant application and the said application was allowed on 20.10.2016. No interim order was granted and the same is pending for the past one year. The Civil Revision Petition has been taken for admission nearly after 1 ½ years. Considering the merits, there is no ground to interfere with the order passed by the court below. Further, if any report is submitted by the Advocate Commissioner, it is open to the revision petitioner to file appropriate application before the court below, if so advised, if permissible under law.

6. The Civil Revision petitioner is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

12.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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D. KRISHNAKUMAR J.,

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To

The XII Assistant City Civil Judge,
Chennai



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