

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.891 of 2018
and CMP.No.4861 of 2018

Velumani

... Petitioner

Vs

1.Dhanalakshmi

2.Krishnakumar @ Ashokumar

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned III Additional District Munsif, Coimbatore dated 07.11.2017 made in IA.No.448 of 2016 in OS.No.2014 of 2009.

For Petitioner : Mr.S.Saravana Kumar

ORDER

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

2. According to the revision petitioner, the revision

petitioner has filed a suit in OS.No.2014 of 2009 on the file of the III Additional District Munsif Court, Coimbatore against the respondents for the relief of mandatory injunction to remove the unauthorised construction on the western side of the suit property and for permanent injunction. In the aforesaid suit, the revision petitioner has filed an application in IA.No.448 of 2016 under Order 26 Rule 9 of the Civil Procedure Code for appointment of Advocate Commissioner to note down the physical features of the suit property and direct the Advocate Commissioner to measure the property according to the sale deed dated 28.03.2007 with the assistance of Taluk Surveyor. The said application was dismissed by the court below. Against the said order, 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 instant application has been filed for appointment of Advocate Commissioner to measure the suit property and no prejudice would be caused to the respondents if the said application is allowed.

4. Heard the learned counsel for the revision petitioner and

perused the materials available on record.

5. On perusal of the records, the revision petitioner has filed already filed an application in IA.No.2206 of 2009 for appointment of Advocate Commissioner to note down the physical features of the suit property. The above Commissioner was appointed and thereafter, due to the non cooperation, the Advocate Commissioner could not submit the report. Therefore, the said application was closed. Now the present application has been filed by the revision petitioner after seven years. The revision petitioner has not chosen to file the application for the re-visit of the Advocate Commissioner. Therefore, filing the present application at the stage of the trial cannot be entertained by this Court. Therefore, the order passed by the court below is confirmed and the same is sustainable in law. There is no error or illegality in the order passed by the court below.

6. At this stage, the learned counsel for the revision petitioner requests this Court to refer the matter to Mediation and Conciliation Centre for amicable settlement between the parties.

7. In the light of the above, the Civil Revision Petition is dismissed. However, it is open to the revision petitioner to approach the court below to refer to the mediation centre to be held in the first week of April 2018. Consequently, the connected miscellaneous petition is closed. No costs.

14.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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To

The III Additional District Munsif,
Coimbatore



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D. KRISHNAKUMAR J.,

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