

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

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

CRP(PD).No.1453 of 2016
and CMP.No.8042 of 2016

V.Eswaramoorthy

.. Petitioner

Vs

Poongodi

.. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 06.02.2016 made in IA.No.68 of 2016 in IA.No.536 of 2010 in OS.No.148 of 2010 on the file of the learned District Munsif Cum Judicial Magistrate, Perundurai.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.D.Gopal

ORDER

According to the revision petitioner, the respondent has filed a suit in OS.No.148 of 2010 for mandatory injunction and

permanent injunction. In the aforesaid suit, the revision petitioner has filed an application in IA.No.68 of 2016 in IA.No.536 of 2010 for appointment of the same Advocate Commissioner appointed by the court below. The said application was dismissed by the court below. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. Heard, the learned counsel for the revision petitioner and the learned counsel for the respondent, and perused the materials available on record.

3. On perusal of the order passed by the court below, it is an admitted fact that an application in IA.No.536 of 2010 was filed for appointment of Advocate Commissioner and the same was allowed. The Advocate Commissioner has submitted his report in the year 2010. The revision petitioner has not objected for the report and plan. But after the commencement of the trial and posted for evidence of PW's, the instant application has been filed in the year 2016. The present application has been filed belatedly. Hence, there is no warrants to interfere with the orders passed by the court below and the Civil Revision Petition is liable to be dismissed. However, it is open to the

revision petitioner to prove the objections through oral and documentary evidence at the time of trial in the suit.

4. In fine, the Civil Revision Petition fails and the same is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

05.02.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No
lok

To

The learned District Munsif Cum Judicial Magistrate,
Perundurai



WEB COPY

D. KRISHNAKUMAR J.,

lok



CRP(PD).No.1453 of 2016
and CMP.No.8042 of 2016

WEB COPY

05.02.2018