

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Civil Revision Petition (PD) No.2418 of 2017 and
C.M.P.No.11428 of 2017

Ganesan

...

Petitioner

...VS..

1.Nallaiyan

2.Vengatachalam

...

Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 09.03.2017, made in I.A.No.306 of 2015 in O.S.No.49 of 2015, on the file of the learned District Munsif Court, Rasipuram, Namakkal District.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.P.Jagadeesan

ORDER

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The apprehension of the petitioner that the respondents herein are trying to construct a poultry farm on their land will pollute the locality and

affect the resources of the petitioner and therefore, had filed an Interlocutory Application seeking for appointment of Advocate Commissioner for the purpose to note down the physical features.

2.The said Application came to be rejected by the trial Court on the ground that the petitioner can establish his right through other independent witnesses and that the same would amount to collection of evidence.

3.I am unable to accept as to how the petitioner would be benefited through a Commissioner's report, when the cause of action for filing the suit as evidenced in the pleadings and the reliefs that the petitioner is aggrieved against the respondents' construction activities in their own land. The allegation made by the petitioner is that the alleged construction of the respondents in their land will cause health hazardous to him. If at all the petitioner has any grievance of that nature, the same could be redressed during the course of trial, at the time of final arguments. The appointment of Advocate Commissioner, in this regard, to note down the alleged construction of the poultry farm inside the property of the respondents may not entitle the petitioner herein to seek for appointment

of Advocate Commissioner. As such, I do not find any infirmity in the order passed by the trial Court. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.11.2018

jbm

Index: Yes/No
Speaking order/non speaking order

To

The District Munsif,
Rasipuram,
Namakkal District.



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M.S.RAMESH.J.,

jbm



CRP (PD) No.2418 of 2017

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