



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD)No.393 of 2018

and

C.M.P. (MD)No.1746 of 2018

Murugan ... Petitioner / Petitioner / 1st Defendant

vs.

Sethuraman ... Respondent / Respondent /Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 05.09.2017 made in I.A.No.345 of 2017 in O.S.No.106 of 2008 on the file of the District Munsif cum Judicial Magistrate, Thirumayam.

For Petitioners : Mr.G.Sridharan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 05.09.2017 made in I.A.No.345 of 2017 in O.S.No.106 of 2008 on the file of the District Munsif cum Judicial Magistrate, Thirumayam.

2. According to the petitioner, the respondent herein, has filed a suit in O.S.No.106 of 2008 for declaration, recovery of possession and permanent injunction. During the pendency of this petition, the petitioner herein has filed a petition under Order 16 Rule 1(2) of CPC r/w 151 CPC to direct the Assistant Engineer, TANGEDCO, K.Pudupatti, to appear before the Court below in person or through some other competent officials and to give evidence with regard to E.B. connection Nos.22 and 451, so as to prove that the petitioner is in possession and enjoyment of the suit properties and the petitioner is constructing houses. But, the lower Court has erroneously dismissed the same and aggrieved over the same, he is before this Court.

3. Before the lower Court, this petition was resisted by the respondent herein by filing a counter affidavit, stating that already an Advocate Commissioner was appointed, who, in turn, has already filed his report and therefore, the petitioner has to prove his contention only by way of adducing documentary evidences, which is rightly held by the Court below and the same does not need any interference.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Heard the learned Counsel for the petitioner and perused



the documents placed on record. Notice to the respondent is dispensed with.

5. A perusal of records would show that the petitioner herein/first defendant in his evidence or in his written statements, has not whispered about anything with regard to the so called two E.B. connections in the suit property. It is also seen that an advocate commissioner was appointed, who, in turn, has filed his report. The Advocate Commissioner was also examined as PW-3.

6. The suit is of the year 2008 and in my considered opinion, the interlocutory application was filed only to prolong the suit, since examination of E.B. Official will in no way help to the petitioner to prove his case and therefore, there is no infirmity or illegality in the impugned order, which does not deserve any interference.

7. In result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate, Thirumayam.

+1cc to Mr.G.Sridharan, Advocate, SR.No. 51516

C.R.P. (PD) (MD) No.393 of 2018
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CMR

KK/JC/20.03.2018/SAR-2/2P-3C