



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.06.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

WEB COPY

C.R.P.(MD)No.2152 of 2015 and
M.P(MD).No. 1 of 2015

Chellapandi : Petitioner/Petitioner/Plaintiff

-Vs-

1.The Panchayat President,
T. Chinthalaicherry Village,
Uthamapalayam Taluk,
Theni District.

2.The Panchayat Union Officer,
Uthamapalayam,
Uthamapalayam Taluk,
Theni District.

3.The District Collector,
Theni District,
Theni.

: Respondents/Respondents/defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 28.10.2014 made in I.A.No.217 of 2014 in O.S.No.5 of 2008 on the file of the District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur.

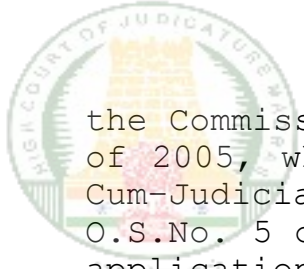
For Petitioner : Mr. K.Guhan
For respondents 1 and 3 : Mrs. V.P.M. Vaishnavi
Government Advocate

O R D E R

The Civil Revision Petition has been filed against the fair and decreetal order dated 28.10.2014 made in I.A.No.217 of 2014 in O.S.No.5 of 2008 on the file of the learned District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur.

2. The revision petitioner, who is the plaintiff in the suit in O.S.No.5 of 2008, has challenged the order passed in I.A.No.217 of 2014 I.A.No.217 of 2014 in O.S.No.5 of 2008 on the file of the learned District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur, seeking for appointment of Advocate Commissioner.

3. It is reported by the learned Government Advocate appearing for the respondents that the Court concerned already appointed an Advocate Commissioner in I.A.No.258 of 2011, in which



the Commissioner has also filed a report on 04.06.2013 in O.S.No.198 of 2005, which was transferred to the file of the District Munsif-Cum-Judicial Magistrate Court, Bodinayakkanoor and re-numbered as O.S.No. 5 of 2008. Thereafter, the petitioner has filed the present application in I.A.No.217 of 2014 in O.S.No.5 of 2008 on the file of the learned District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur, seeking for appointment of another Advocate Commissioner.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

5. On perusal of the records it is seen that already Advocate Commissioner was appointed and he has also filed his report. But, without seeking either to scrap the earlier report of the Advocate Commissioner, or re-issue of the warrant to the very same Advocate Commissioner, the petitioner has filed the application in I.A.No.217 of 2014 for appointment of another Advocate Commissioner. In such circumstances, the Trial Court has rightly passed an order in I.A.No. 217 of 2014 stating that the petitioner cannot seek for an appointment of second Advocate Commissioner, as the earlier report is pending. Hence, this Court is not inclined to interfere with the order passed by the learned District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur.

6. In the result,

(a) This Civil Revision Petition is dismissed by confirming the order dated 28.10.2014 made in I.A.No.217 of 2014 in O.S.No.5 of 2008, on the file of the learned District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur.

(b) The petitioner is given liberty to file an application either to scrap the earlier report filed by the Advocate Commissioner or seeking for re-issuance of warrant for the very same Advocate Commissioner for inspecting the suit property and file a report, within a period of two weeks from the date of receipt of a copy of this order.

(c) On filing such application by the revision petitioner / plaintiff, the trial Court is directed to entertain that application and to pass appropriate orders within a period of three weeks, by giving proper notice to both parties.

(d) Thereafter, the trial Court is directed to dispose of the suit in O.S.No. 05 of 2008 within a period of three months.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

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

Sub Assistant Registrar



To

The District Munsif - Cum - Judicial Magistrate, Bodinayakkanaur.

+1cc to M/S.K.Guhan, Advocate SR.No. 70322

+1cc to Special Government Pleader, SR.No. 70503

C.R.P. (MD) No. 2152 of 2015 and
M.P (MD) .No. 1 of 2015
28.06.2018

trp

JM/PN/SAR 2/18.07.2018/3P/4C