



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.1119 of 2018

and

C.M.P(MD) .No.4811 of 2018

Govindarasu .. Petitioner/Respondent/Plaintiff

/Vs./

Palanivel .. Respondent/Petitioner/Defendant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records of the learned District Munsif, Pattukkottai made in I.A.No.167 of 2017 in O.S.No.253 of 2013 and set aside the fair and decreetal order dated 17.04.2018.

For Petitioner : Mr.S.Deenadhayalan

For Respondent : No Appearance

ORDER

The revision petitioner is the plaintiff in O.S.No.253 of 2013 on the file of the District Munsif Court, Pattukottai. The suit is filed for declaration and permanent injunction. At the instance of the revision petitioner, an Advocate Commissioner was appointed and he has also submitted his report. It is still on record and has not been scrapped. While so, after examination of P.W.1 and closure of plaintiff's side evidence, the defendant filed I.A.No.167 of 2017 for appointment of Advocate Commissioner. The same was allowed by an order dated 17.04.2018. The correctness of the said order is questioned in this Civil Revision Petition.

2. Though the respondent has been serving and his name is also printed in the cause list, there is no appearance on his behalf either in person or through counsel.

3. As rightly submitted by the learned counsel for the petitioner the defendant has not objected to the contents of the report of the earlier Advocate Commissioner and the same has not been scrapped. The question of appointing a fresh Advocate Commissioner will not arise. Moreover, it is seen that such application was taken out after the plaintiff's side evidence was closed and the case was posted for defendant's side evidence. These considerations have not been taken note of by the court



below.

4. In such view of the matter, the order impugned in this Civil Revision Petition is set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected C.M.P.(MD) No.4811 of 2018 is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS-III)

To

1.The District Munsif, Pattukottai.

2.The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

**C.R.P. (PD) (MD) No.1119 of 2018
and C.M.P. (MD) No.4811 of 2018
23.08.2018**

CM

TR/PM/SAR-III(25.09.2018)2P 4C