



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.(PD) (MD) Nos.1368 & 1369 of 2018

and

CMP (MD) No.5928 of 2018

1.Ajitha Kumari

2.S.Murugan

... Petitioners / Plaintiffs in
both C.R.Ps.

-vs-

1.K.Nagappan

2.Iyyappan Pillai

3.Sreema Devi

... Respondents / Defendants
in both C.R.Ps.

Common Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order passed in I.A.No.809 of 2017 & 808 of 2017 respectively in O.S.No.253 of 2011, on the file of Sub-Ordinate Judge, Padmanabhapuram.

For Petitioners : Mr.S.C.Herold Singh
For Respondent-1 : Mr.V.M.Balamohan Thampi
For Respondents : Mr.K.P.Krishnan
(R2 & R3)

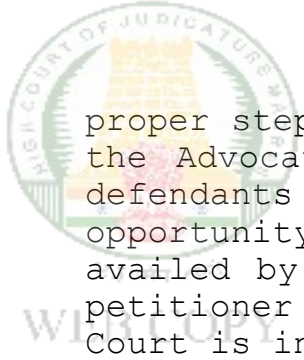
COMMON ORDER

Both the Civil Revision Petitions have been filed against the order of dismissal passed by the learned Subordinate Judge, Padmanabhapuram.in I.A.No.808 of 2017, for reopening the case and in I.A.No.809 of 2017 for recalling the Advocate Commissioner Tmt.Nagalakshmi, for examination on the side of the petitioners / plaintiffs. Both the petitions were dismissed on the only ground that earlier occasion the petitioners have filed an application for examining the Advocate Commissioner, which was also allowed, but the petitioners have not taken any steps for examining the Advocate Commissioner and therefore, the application filed as 2nd time, is not maintainable. Challenging the said order, the present Civil Revision Petitions have been filed.

2. I have heard the learned counsel appearing for the petitioners and the learned counsel for the respondents.

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

Admittedly, the petitioners were already given an opportunity for examining the Advocate Commissioner, but they have not taken any



proper steps for examination. It is my absolute view that examining the Advocate Commissioner will not prejudice to the respondents / defendants in any way. Initially the petitioners were given an opportunity for examination of Advocate Commissioner, which was not availed by the petitioners, but giving one more opportunity to the petitioner will give fair justice to the parties. Therefore, this Court is inclined to pass the following orders;-

Both the Civil Revision Petitions are allowed by setting aside the order fair and decretal order passed in I.A.Nos.809 of 2017 & 808 of 2017 respectively in O.S.No.253 of 2011, by the learned Sub-Ordinate Judge, Padmanabhapuram. The learned Subordinate Judge, Padmanabhapuram, is directed to recall the Advocate Commissioner, for examination, by directing the petitioners to complete the examination within a period of two weeks from the date of passing the order by the learned Judge and the respondents are giving liberty to cross examine the Commissioner. After completion of examination of Advocate Commissioner by both the parties, the trial Court is directed to dispose the suit within a period of four weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

The Subordinate Judge,
Padmanabhapuram.

+1cc to M/S.K.P.Krishnan, Advocate SR.No. 74808
+1cc to M/S.V.M.Balamohan Thampi, Advocate SR.No. 75286
+1cc to M/S.S.C.Herold Singh, Advocate SR.No. 74899

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JM/SKN RSK/SAR 2/06.09.2018/2P/5C