



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **06.09.2018**
CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) .No.2156 of 2016
and
C.M.P.(MD)No.10063 of 2016

C.Willson

... Petitioner

Vs.

1.Aryas Super Market a Partnership Firm,
Through its one of the Partner,
R.Sankar Babu

2.R.Sankar Babu
3.M.Jeyaprakash Narayanan
4.J.Prabavathy
5.S.Rani

... Respondents

PRAYER: Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition by setting aside the order passed in I.A.No.273 of 2014 in O.S.No.21 of 2013 dated 26.08.2016 on the file of the Principal District Munsif Court, Tirunelveli.

For petitioner: Mr.R.Manimaran

For R2 : Mr.T.Selvan

ORDER

The defendant in O.S.No.21 of 2013 on the file of the learned Principal District Munsif, Tirunelveli, is the revision petitioner herein. The suit is for declaration and recovery of possession. The plaintiffs filed I.A.No.273 of 2014 for appointment of an advocate commissioner. The same was allowed on 11.03.2015 by the Court below. The same was questioned in C.R.P. (MD) No.821 of 2015. This Court set aside the said order on noting that the order was non-speaking. Thereafter, the following direction was issued.

"7.The learned Trial Judge is directed to consider the application afresh, after adducing evidence by the learned Trial Judge should take a decision independently, if appoitment of Advocate Commissioner is



necessary for an effective adjudication of the matter in issue."

2. After the matter was remanded, once again the I.A., has been allowed by order dated 26.08.2016. The same is challenged once again by the defendants.

3. The learned Counsel appearing for the revision petitioner would submit that the order impugned in this Civil Revision Petition is to be set aside on the short ground that the direction given by this Court in the earlier Civil Revision Petition has not been kept in view. This Court had given a specific direction that I.A.No.273 of 2014 is to be considered only after the conclusion of evidence.

4. In this case, according to the learned counsel for the revision petitioner, the trial is yet to commence. Therefore, on this sole ground, the order impugned in this Civil Revision Petition is set aside.

5. The plaintiffs are given liberty to file a fresh application for appointing an advocate commissioner if necessary after conclusion of evidence in the suit.

6. With this liberty to the plaintiffs, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar (CS-II)

To

1. Principal District Munsif,
Tirunelveli.

2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)



+ 1 CC TO MR.T.Selvan, ADVOCATE IN SR NO. 82885
+ 1 CC TO MR.R.Manimaran, ADVOCATE IN SR NO. 83241

PNN

BU/SKN/SAR-II : 28.09.2018 : 3P/6C

ORDER MADE IN
C.R.P. (PD) (MD) .No.2156 of 2016
and
C.M.P. (MD) No.10063 of 2016
06.09.2018