



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) .Nos.2361 & 2362 of 2016 and
C.M.P. (MD) No.10991 of 2016

Alice Rathinamani

... Petitioner/Petitioner/
Plaintiff in both petitions

Vs.

Aathinarayanan @ Vellaiyan

... Respondent/Respondent/
Defendant in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.08.2016 passed in I.A.Nos.415 and 416 of 2016 in O.S.No.126 of 2011 on the file of the Principal District Munsif court, Thoothukudi.

(in both petitions)

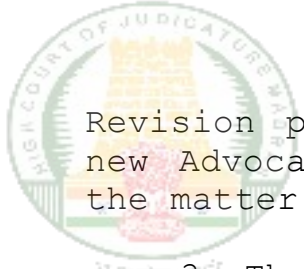
For Petitioner: Mr.M.P.Senthil

For Respondent: Mr.S.Kadarkarai

C O M M O N O R D E R

The plaintiff in O.S.No.126 of 2011 on the file of the learned Principal District Munsif, Thoothukudi, is the Revision petitioner herein. The suit is one for declaration and permanent injunction. In the said suit, an Advocate Commissioner was appointed. But it appears that there was an inordinate delay in filing the report. Therefore, the Revision petitioner herein filed two Interlocutory applications. One for scrapping the report and other for re-issuing the warrant. Both the said applications were dismissed by the Court below by order dated 23.08.2016. Questioning the same, these Civil Revision petitions have been filed.

2. I am of the view that the Advocate Commissioner ought to have filed a final report soon after the inspection was conducted. Any delay is bound to lead to filing of a defective report. This is because, any report should be prepared, when the facts are fresh in one's memory. But then, the Revision petitioner has not questioned the impartiality of the Advocate Commissioner. The



Revision petitioner herein is not asking for the appointment of new Advocate Commissioner but only re-issuance. This aspect of the matter is noted.

3. The orders passed by the learned Principal District Munsif, Thoothukudi, in I.A.Nos.415 and 416 of 2016 in O.S.No.126 of 2011, dated 23.08.2016, are set aside. The Civil Revision petitions stand allowed.

4. It is hoped that she would file her report within a short time, after concluding her inspection. The Advocate Commissioner shall take the assistance of the surveyor. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1. The Principal District Munsif,
Thoothukudi.

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

+ 1 CC TO MR.S.KADARKARAI, ADVOCATE IN SR NO.83899

+ 1 CC TO MR.M.P.SENTHIL , ADVOCATE IN SR NO.83835

PMU

BU/RSK/SAR-III:26.10.2018 : 2P/6C

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