



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM:

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (MD) .No.392 of 2016andC.M.P. (MD) .No.1731 of 2016

Natham Town Panchayat
through its Executive Officer,
Natham
Dindigul District.

... Revision Petitioner/Defendant

-vs-

S.R.Balasubramanian

... Respondent/Plaintiff

Prayer: Civil Revision Petition under Article 227 of the Constitution of India as against the fair and decreetal order dated 27.10.2015 passed in I.A.No.485 of 2015 in O.S.No.196 of 2014 on the file of the Additional Sub Judge, Dindigul.

For Petitioners : Mr.T.S.Mohamed Mohideen
For Respondent : Mr.B.Jameel Arasu

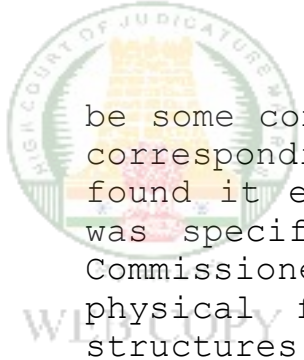
ORDER

Heard the learned counsel appearing on either side.

2.The respondent in the Civil Revision Petition filed a suit in O.S.No.196 of 2014, seeking the relief of declaration and permanent injunction. The local authority is the defendant in the suit apart from the Government. The plaintiff filed I.A.No.485 of 2015 for appointment of Advocate Commissioner and the same was allowed by order dated 27.10.2015. The same is questioned by the local body in this Civil Revision Petition.

3.The learned counsel appearing for the revision petitioner, placing reliance on a decision of this Court in the case of **Jabeen Taj Vs M.Parveen Banu and another**, reported in 2005 (3) MLJ 24, contended that since there is no dispute with regard to the identity of the property, the trial court ought not to have allowed the application in question.

4.Though the proposition canvassed by the revision petitioner's counsel is an admitted one, this Court is of the view <https://hservices.ecourts.gov.in/hservices/> passed in I.A.No.485 of 2015 does not warrant any interference. The court below has observed that there appears to



be some confusion with regard to the existence of old Sy.No.106/4B corresponding to new Sy.No.424/15. At this juncture, the Court found it expedient in appointing the Advocate Commissioner. It was specifically observed by the court below that the Advocate Commissioner is not going to speak about possession but only the physical features and measurement of the area, in which the structures that is house with D.No.1-1-265/3 is present as well as the old Sy.No.106/4B. The court below has taken the view that the report of the Advocate Commissioner would aid in better adjudication of the issue. The said decision of the court below does not warrant any interference at the hands of this Court in exercising jurisdiction under Article 227 of the Constitution of India.

5.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Additional Sub Judge,
Dindigul

+1cc to Mr.T.S.Mohamed Mohideen, Advocate SR.No.77871

+1cc to Mr.B.Jameel Arasu, Advocate SR.No.77891

Vs

MK/SKN/SAR 2/03.09.2018/2P/4C

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