



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1505 of 2018

and

C.M.P. (MD) No.6539 of 2018

D.Arumugam ... Petitioner / Petitioner /
Defendant
/Vs./

Subbaiah ... Respondent / Respondent /
Plaintiff

Prayer: Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.04.2018 passed in I.A.No.298 of 2018 in O.S.No.122 of 2013 on the file of the Additional District Munsif Court, Ambasamudram, Tirunelveli.

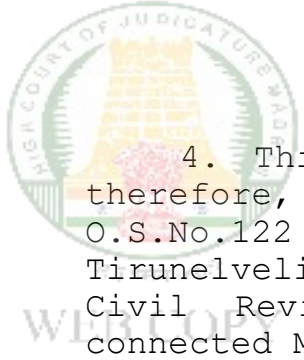
For Appellant : Mr.R.J.Karthick
For Respondent : No appearance

ORDER

The revision petitioner is the defendant in O.S.No.122 of 2013 on the file of the Additional District Munsif Court, Ambasamudram. The suit was filed for declaration and injunction. The revision petitioner in his written statement had questioned the very identity of the suit property and four boundaries. Therefore, in the very nature of things, an advocate Commissioner has to be appointed to better elucidate the facts. Of course, the revision petitioner ought to have been taken out an application under Order 26 C.P.C. well in time. But, he had taken out the application after the commencement of the trial. This probably impelled the Court below to dismiss the petitioner's Interlocutory Application.

2. Though the respondent / complainant has been served and his name is printed in the cause list, there is no appearance on his behalf.

3. The learned counsel appearing for the revision petitioner pointed out that since the revision petitioner had disputed the very location and four boundaries of the suit property, in the written statement, appointment of an Advocate Commissioner is quite vital and imperative.



4. This Court is in agreement with the said submission and therefore, the order impugned, passed in I.A.No.298 of 2018 in O.S.No.122 of 2013 by the Additional District Munsif, Ambasamudram, Tirunelveli, filed by the revision petitioner is set aside. The Civil Revision Petition is accordingly allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

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To

The Additional District Munsif Court,
Ambasamudram, Tirunelveli.

+1cc to Mr.R.J.Karthick, Advocate in SR No.78180

C.R.P.(MD)No.1505 of 2018

NM/SV/SAR 3/11.10.18/2P/3C.