



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.654 of 2016

and

C.M.P. (MD) No.3031 of 2016

Jeyabalan

...Petitioner / Petitioner / Plaintiff

-Vs-

Paramasivam

...Respondent / Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 08.09.2015 passed in I.A.No.243 of 2015 in O.S.No.128 of 2013 on the file of the Additional District Munsif Court, Lalgudi and thereby allow the Civil Revision Petition.

For Petitioner : Mr.M.R.Sreenivasan
for Mr.R.Nandakumar

For Respondent : Mr.S.Parthasarathy

ORDER

The Revision petitioner filed O.S.No.128 of 2013 before the Additional District Munsif Court, Lalgudi for ejecting the respondent herein.

2.The revision petitioner filed I.A.No.243 of 2015 for appointment of an Advocate Commissioner for measuring the suit property and noting the physical features of the land in question. The said application was dismissed by the Court below by order dated 08.09.2015. Questioning the same, the Civil Revision Petition has been filed.

3.Heard the learned counsel on either side.

4.The learned counsel for the petitioner reiterated the grounds set out in the memorandum.

5.As rightly pointed out by the Court below, the only issue to be decided is as to whether there is a landlord and tenant relationship, which is categorically denied in the written statement. Only if the landlord and tenant relationship is established, the suit will have to be decreed.



6. Therefore, to answer the issue raised in the suit, appointment of an Advocate Commissioner is not at all necessary. Therefore, the order impugned in this Civil Revision Petition is sustained and this Civil Revision Petition is dismissed.

7. The learned counsel for the respondent submits that the petitioner is aged about 70 years. He is a senior citizen. The suit is of the year 2004. Therefore, the learned Additional District Munsif, Lalgudi is directed to dispose of the suit in O.S.No.128 of 2013 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

1. The Additional District Munsif Judge,
Lalgudi.

2. Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr. R. Nandakumar, Advocate, SR.No.81256

+1CC to Mr. S. Parthasarathy, Advocate, SR.No.80940

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29.08.2018

TA

ES/SKN/RSK/SAR 4/17.10.2018/2P/6C