



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P.(MD).No.89 of 2016 and
C.M.P.(MD)No.378 of 2016

P.Raju

... Petitioner/Petitioner/
Petitioner/Plaintiff

Vs.

M.Antony Sendana Siluvainathan

... Respondent/Respondent/
Respondent/Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 19.11.2015 passed in I.A.No.565 of 2015 in I.A.No.780 of 2008 in O.S.No.1579 of 2008 on the file of the I Additional District Munsif Court, Thiruchirappalli and allow the present Civil Revision petition.

For Petitioner : Mr.J.Anandhavalli
For Respondent : Mr.R.Sundar Srinivasan

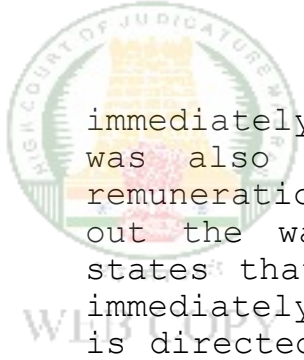
O R D E R

The Revision petitioner is the plaintiff in O.S.No.1579 of 2008 on the file of the Court of the I Additional District Munsif, Thiruchirappalli.

2. It is a suit for permanent injunction in respect of 'B' scheduled property. The Revision petitioner filed I.A.No.780 of 2008 for appointment of Advocate Commissioner. The said application had got closed due to certain reasons. To reopen the same, the present I.A.No.565 of 2015 was filed. The said application was dismissed by the Court below by order dated 19.11.2015. The correctness of the said order is assailed in this Civil Revision petition.

3. The learned counsel appearing for the respondent contended that the reasons assigned by the Court below for dismissing the said application are very much acceptable and that this Court should affirm the same. He also pointed out that the plaintiff had already examined himself and that he had made certain vital admissions during the cross examination. He pointed out that no purpose will be served by reopening the said application which has already become infructuous.

4. However, as already contended by the learned counsel for the petitioner, it is to be noted that I.A.No.780 of 2008 was filed



immediately after the filing of the suit. The Advocate Commissioner was also appointed. But then, on account of non-payment of remuneration to him, the said Advocate Commissioner did not carry out the warrant. Since the learned counsel for the petitioner states that the petitioner would pay the said remuneration amount immediately, the Advocate Commissioner who was originally appointed is directed to carry out the warrant and submit the report within a period of four weeks from the date of receipt of a copy of this order.

5. With these observations, the order passed by the learned I Additional District Munsif, Thiruchirappalli, in I.A.No.565 of 2015 in I.A.No.780 of 2008 in O.S.No.1579 of 2008, dated 19.11.2015, is set aside. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The I Additional District Munsif,
Thiruchirappalli.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1CC TO M/s.J.ANANDHAVALLI ADVOCATE IN S.R.NO.79033.

+1CC TO MR.R.SUNDAR SRINIVASAN, ADVOCATE IN SR.NO.78981.

PMU

DS RSK SAR-1 :24.09.2018: 2P/6C

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