

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD)No.1385 of 2019

and

CMP.No.9116 of 2019

Dhananseyan

...Petitioner

Vs

Vijayalakshmi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 07.03.2019 passed in I.A.No.73 of 2019 in O.S.No.168 of 2018 by the Additional District Munsif's Court at Mayiladuthurai with cost.

For Petitioner : Mr. P. Sesubalanraja

सत्यमेव जयते

ORDER

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The above Civil Revision Petition is filed challenging the order passed by the Additional District Munsif, Mayiladuthurai in I.A.No.73 of 2019 in O.S.No.168 of 2018 wherein the revision petitioner wanted appointment of a fresh Advocate Commissioner since earlier Advocate Commissioner was unable to complete his

Commissioner had filed an initial report but could not file a final report. Thereafter, the memo was filed by the revision petitioner to direct the Commissioner to reinspect the suit property, but the Commissioner reported that he was not in town and there was no possibility for him to return for over a month. At this juncture, the revision petitioner has come forward with a present petition for appointment of another Advocate Commissioner with the aid of the police, to inspect the said property to note down the damages that have been caused to the land and to file a report along with the CD.

2. The defendant has objected to the said application inter alia contending that the property is in the possession of the respondent and it does not belong to the revision petitioner and in a suit for bare injunction, the Advocate Commissioner cannot be appointed. The learned Judge after considering the arguments of both parties ultimately allowed the application.

3. The learned Judge, while allowing the application has observed that the bone of contention raised by the petitioner is that subsequent to the report of the Commissioner, the injury that has been caused by the respondent could be assessed only by allowing the Commissioner to inspect the suit-property once again. This is the

Challenging the said order, the revision petitioner is before this Court.

4. Mr. P. Sesubalanraja, learned counsel who appears for the revision petitioner would contend that the Advocate Commissioner had completed the inspection and therefore there is no necessity for any re-inspection.

5. In the affidavit that has been filed in support of the application, the respondent has submitted that the revision petitioner remained absent during the visit of the Advocate Commissioner, which prevented the Advocate Commissioner from completing the inspection.

6. As rightly pointed out the Court below the dispute with reference to the injuries caused to the suit property could actually be considered only by the Advocate Commissioner by noting down the same. Though in a suit for bare injunction the relief of appointment of additional Advocate Commissioner is sought for, but it is seen that already the Advocate Commissioner has been appointed and inspection can be carried out what remains is only the filing of the completed report, which the earlier Commissioner has not done by

P.T.ASHA, J.,**mrn**

not find any infirmity in the order passed by the learned Additional District Munisf, Mayiladuthurai. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

11.04.2019

Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order
mrn

To
The Additional District Munisf Court,
Mayiladuthurai.

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