

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CRP (PD) NO.1988 OF 2019

AND

CMP NO.12930 OF 2019

1.Pattammal
2.S.Dhakshinamoorthy

... Petitioners

Vs.

1.Ashok Kumar
2.Karunadevi
3.Nagarajan
4.Shanthakumari

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair order and decreetal order of the learned Additional District Munsif court at Chidambaram passed in I.A.No.389 of 2018 in O.S.No.195 of 2013 dated 01.03.2019 and prays that the same may be set aside.

For Petitioners : Mr.R.Sagadevan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 01.03.2019 passed in I.A.No.389 of 2018 in O.S.No.195 of 2013 by the learned Additional District Munsif, Chidambaram.

2. The revision petitioners are the plaintiffs. They filed a suit for permanent injunction restraining the defendants/respondents from evicting them by undue process of law. The plaintiffs claim themselves to be tenants and that in order to note down the physical features of the property, they want to appoint an Advocate Commissioner.

3. The learned counsel for the petitioners would vehemently contend that the Advocate Commissioner make a local inspection and thereby find out what is the length and breadth of the property that will elucidate the Court about the real fact. The third and fourth respondents are supporting his case and therefore, an Advocate Commissioner needs to be appointed.

4. On the other hand, the Trial Court dismissed the

interlocutory application on the ground that in a question for granting interim injunction restraining the respondents from evicting the petitioners by undue process of law, an Advocate Commissioner need not be appointed.

5. The learned counsel for the petitioners would further rely on the judgments of this Court in **ANWAR BATCHA AND ANOTHER VS. S.MAHUEDOOM [2014 (5) CTC 85]** and **KANDIPALAYAM RAJAVAIKKAL SIRU VIVASAIYIGAL NEERETRU PASANA SANGAM [2017 (2) CTC 404]**.

6. In the judgment of this Court in **Anwar Batcha's case (cited supra)** an Advocate Commissioner was sought to be appointed to find out as to whether the building had already been fallen down at the ground level even six months prior to the filing of the suit and the remnants alone are remaining there for evidencing that already there was a house in the suit site. Such facts are to be elucidated by appointing an Advocate Commissioner.

7. In the judgment of this Court in **Kandipayalam**

Rajavaikkal's case (cited supra) the parties wanted to elucidate the dispute pertaining to drawing of water through pipelines for irrigation, wherein, this Court has observed that the intention of legislature is that an Advocate Commissioner can be appointed for the purpose of elucidating any matter in dispute by way of helping Court which deems local investigation is absolutely necessary and the details regarding laying of pipelines by petitioners and others, service connection provided to the Electric Motor Pumps to suck water, distance at which Wells are located and Motor Pumps are placed, cannot be directly taken by Courts and these are all the facts to be found only by appointing an Advocate Commissioner.

8. The case on hand is only for interim injunction restraining the respondents from evicting the petitioners by undue process of law. In the instant case, what is required to be proved is that the whether there is a landlord-tenant or lessor-lessee relationship between the parties and that possession is with the petitioners/tenants. Further, for the attempts of the respondents/landlords to evict the petitioners/tenants by undue process of law, an Advocate Commissioner need not be appointed, as sought for by the petitioners/tenants. The Trial Court has

rightly decided the issue and dismissed the interlocutory application and I do not find any infirmity in the order passed by the Trial Court.

9. In fine, the Civil Revision Petition is dismissed. No costs.

Consequently, connected civil miscellaneous petition is closed.

24.06.2019

Index : Yes/No
Internet : Yes/No
TK

To

The Additional District Munsif
Chidambaram.



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M.GOVINDARAJ, J.

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