

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P(PD)No.2301 of 2014

and

M.P.No.1 of 2014

Munusamy

.. Petitioner

vs

1.Arumugam

2.Jayabal

3.Anandhan

4.Cauvery

5.Nagammal

.. Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decreetal Order dated 08.04.2014 passed in I.A.No.145 of 2014 in I.A.No.523 of 2013 in O.S.No.362 of 2010 on the file of the Additional District Munsif Court, Mayiladuthurai to set aside the same.

For Petitioner

: Mr.K.Govi Ganesan

For Respondents

: Mr.A.Muthukumar

ORDER

The petitioner is the defendant in O.S.No.362 of 2010. The said suit was filed by the respondents before the Additional District Munsif Court, Mayiladuthurai for recovery of possession of the property.

2.After the written statement was filed and commencement of trial, the respondents/plaintiffs filed an application vide I.A.No.523 of 2013 for appointing Advocate Commissioner. The petitioner/defendant however did not file their counter.

3.Therefore, the application was allowed exparte order and appointed an Advocate Commissioner to measure the property and submit a report with a plan.

4.The petitioner/defendant thereafter had filed I.A.No.145 of 2014 to set side the exparte order for appointing the Advocate Commissioner to inspect and to give a report in the property dispute between the parties here to.

5.By the fair and decreetal dated 08.04.2014 the District Munsif Court has dismissed the application stating that there was no bonafide in the said application to set aside the order of the appointing

Advocate Commissioner.

6.Only on the ground filed to set aside the exparte order in I.A.523 of 2013, was fact that the petitioner/defendant was suffering from jaundice and was taking treatment therefore unable to give proper instructions to his counsel.

7.The court has concluded that the intention of the petitioner/defendant was to drag on the proceedings. The Advocate Commissioner appointed since has also given his report.

8.I find no merits in the present Civil Revision Petition except to further delay the proceeding. Therefore, the present Civil Revision Petition is liable to be dismissed

9.The petitioner/defendant can raise all objections to the report given by the Advocate Commissioner in the suit before the District Munsif, Mayiladuthurai in O.S.No.362 of 2010.

10.The suit is of the year 2010 an is pending last nine years. On account pending of the present Civil Revision Petition from 2014.

C.SARAVANAN,J.

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There is no merits keeping the suit pending for such long period. The District Munsif Court shall therefore endeavour to dispose the suit within a period of nine months from the date of receipt of a copy of this order.

11.The Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

26.02.2019

Speaking : Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Additional District Munsif Court,
Mayiladuthurai.

C.R.P(PD)No.2301 of 2014
and
M.P.No.1 of 2014