

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3464 of 2019

and

C.M.P.No.22802 of 2019

D.Sivakumar

..Petitioner/Defendant No.6

-Vs-

1.D.Ravikumar

2.Ruckmaniammal

3.D.Mathan

4.D.Ramachandran

5.D.Rajendran

6.D.Srinivasan

... Respondents

Prayer : Civil Revision Petition under Article 227 of Constitution of India, against the fair and decreetal order dated 05.07.2019 passed in I.A.No.1 of 2019 in I.A.No.461 of 2013 in O.S.No.86 of 2012 dated 05.07.2019 on the file of the learned District Munsif at Udthagamandalam.

For Petitioner : Mr.S.Shankar

O R D E R

This revision has been filed against the fair and decreetal order dated 05.07.2019 passed in I.A.No.1 of 2019 in I.A.No.461 of 2013 in O.S.No.86 of 2012 on the file of the learned District Munsif at Udthagamandalam.

2. Before the trial Court, the present revision petitioner was the sixth defendant, who filed an application in I.A.No.461 of 2013 to appoint an Advocate Commissioner and the said petition was allowed and Advocate Commissioner was appointed on 14.02.2014. By the said order, the Advocate Commissioner was directed to inspect the property and file a report on or before 13.03.2014. Thereafter, it is not known as to why the Advocate Commissioner has not acted upon pursuant to the warrant issued to him and after a long period ie., after 1½ years, the sixth defendant, who is the revision petitioner herein was set exparte

in the suit on 04.08.2016. In the meanwhile, the application ie., I.A.No.461 of 2013, appointing the Advocate Commissioner had been closed by the Court below on 05.02.2016. However, on 03.01.2019, after the exparte decree was set aside as against the present revision petitioner / sixth defendant, he seems to have filed the present application ie., I.A.No.1 of 2019 to reopen the I.A.No.461 of 2013. The said application since has now been dismissed, aggrieved over the same, the present Civil Revision Petition has been filed.

3. I have heard the learned counsel for the petitioner and also perused the materials placed on record.

4. The revision petitioner is the sixth defendant in the suit, and at whose instance, in I.A.No.461 of 2013, Advocate Commissioner was appointed on 14.02.2014 and he was supposed to file a report on or before 13.03.2014. However, nothing was moved from the Advocate Commissioner and no steps seems to have been taken by the revision petitioner / sixth defendant and ultimately the application was closed on 05.02.2016. Thereafter also, no steps seems to have been taken by the revision petitioner / sixth defendant. Subsequently, the revision petitioner himself became exparte in the suit on 04.08.2016 and after three years, the said exparte decree was set aside. In January 2019, the revision petitioner / sixth defendant filed the present application to re-open the said application in I.A.No.461 of 2013.

5. The aforesaid facts show the conduct of the revision petitioner / sixth defendant and no plausible reason has been given by the revision petitioner as to why no steps had been taken on the alleged inaction on the part of the Advocate Commissioner between 14.02.2014 and 04.08.2016 and also immediately after the application was closed on 05.02.2016, as at that time admittedly the sixth defendant / revision petitioner was very well contesting the suit.

6. Therefore, these points would go against the revision petitioner, as the revision petitioner does not seem to have good intention to contest the suit in proper manner and by the said conduct, the revision petitioner has got exposed that he, in one way or the other, is trying to protract the suit proceedings and the present application is one such attempt. Hence, this Court feels that there is no infirmity in the impugned order passed by the trial Court and it does not warrant any interference by this Court under the revisional jurisdiction.

7. In that view of the matter, the Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Munsif
at Udhagamandalam.

+1 cc to M/s.A.Ilaya Perumal, Advocate Sr.No. 89832

AKM/04.12.19/3P-3C /

C.R.P. No.3464 of 2019



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