

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P.No. 3423 of 2019
and
C.M.P.No. 22526 of 2019

K.Navin

... Petitioner

-Vs-

Kali (Since Died)

1. K.Govindasamy

2. R.Krishnan

3. D.Thangaraj

4. Kali

5. Nasi

6. Valarmathi

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order passed in I.A.No. 05 of 2019 in O.S.No. 326 of 2006 dated 06.09.2019 on the file of the Additional District Munsif, Thirupattur and thereby appoint advocate commissioner.

For Petitioner : Mr. S.Senthilnathan
For Respondents : Mr.D.Thangaraj
(Party in Person – R3).

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 06.09.2019 passed in I.A.No. 05 of 2019 in O.S.No. 326 of 2006 on the file of the Additional District Munsif, Thirupattur and thereby appoint advocate commissioner.

2. Before the Trial Court, the plaintiff, who filed Original Suit in the year 2006, had filed the present application to appoint an Advocate Commissioner, to verify property and to file a report, which was rejected by the trial Court. Aggrieved over the same, the present revision petition has been filed.

3. Mr.D.Thangaraj/the 3rd respondent who appeared party in person has brought to the notice of this Court that, due to the order passed by this Court in connected CRP.P.D.No. 1580 of 2015 by order

dated 27.04.2018, the suit in O.S.No. 326 of 2006 has to be disposed of within three months.

4. In the said CRP, the very same revision petitioner, challenged the order of rejection made by the District Court, Vellore in transferring the suit in O.S.No. 326 of 2006 by order dated 20.02.2015.

5. While considering the same, the learned Judge having confirmed the order passed by the Principal District Judge in rejecting the transfer application has further given the following direction;

“8. However, it is made clear that since the suit is filed in the year of 2006 and the same is pending for more than ten years, the trial Judge is directed to dispose of the case within a period of three months from the date receipt of a copy of this order. Both the parties are hereby directed to give their fullest co-operation for early disposal. Therefore, the learned District Munsif, Thiruppathur, Vellure District, is directed to make endeavour to give fair opportunity to both sides and dispose of the case in accordance with law within a stipulated time.

9. The Civil Revision Petition is dismissed. No costs. Consequently connected petition is closed.”

6. Pursuant to the said direction issued by this Court, it seems that the Trial Court has taken earnest steps to speed up of the adjudication and as of now, PW1 was examined. However, remaining witnesses have to be examined. By order dated 27.04.2018, this Court granted 3 months time initially to dispose of the suit. Subsequently, no extension is granted.

7. Be that as it may, now even after 3 months, during July 2019 I.A.No.5 of 2019 has been filed by the Plaintiff/ Revision petitioner to appoint the Advocate Commissioner.

8. It seems that the suit is for bare injunction, the plaintiff seeks the relief for appointing the Advocate Commissioner after several years. The appointment of Advocate Commissioner would no way helpful to the plaintiff or other party. The Advocate Commissioner cannot be appointed to gather evidences.

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9. However, those issues have to be decided by the Trial Court within time frame fixed by this Court and therefore, if an Advocate

Commissioner is appointed, the same would no way helpful to the parties and such a move on the part of the plaintiff cannot be encouraged by the Trial Court. Therefore, this Court feels that there is no need to interfere with the order impugned herein.

10. Even after one year and three months, the trial of the suit is yet to be over. Therefore this kind of application, without any plausible reason cannot be allowed. Therefore from that angle, also the present order which is impugned herein cannot be said to be a wrong one and therefore this Court feels that the impugned order is liable to be confirmed.

11. Accordingly the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No

Speaking order / Non speaking order

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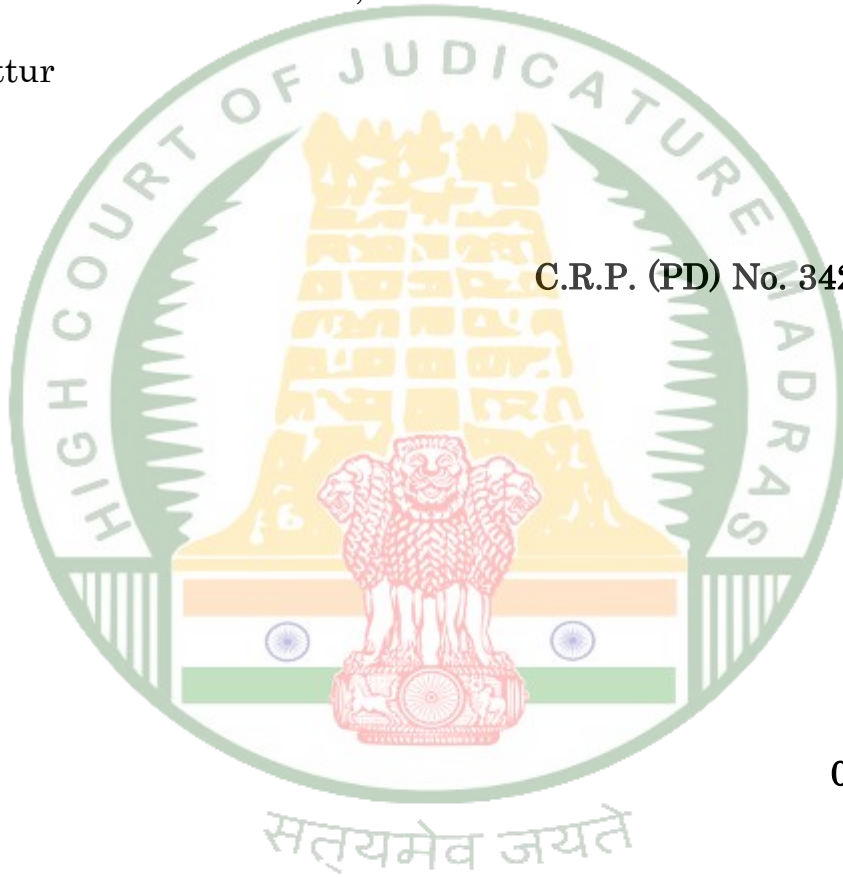
R. SURESH KUMAR, J.

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To

The Additional District Munsif,

Thirupattur



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