

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.(PD) No.3696 of 2019
and C.M.P.No.24298 of 2019

R.S.Madhavan

... Petitioner

-Vs-

Smt.Ganga Bai

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 23.09.2019 passed in I.A.SR.No.32096 / 2019 in O.S.No.5925/2008 on the file of the XVI Assistant City Civil Court, Chennai.

For Petitioner : Mr.R.Thanjan
For Respondent : Mr.T.S.Rajamohan

O R D E R

This revision petition has been filed against the fair and decreetal order dated 23.09.2019 passed in I.A.SR.No.32096 / 2019 in O.S.No.5925/2008 on the file of the XVI Assistant City Civil Court, Chennai.

2. Before the trial Court, the petitioner filed the suit for declaration and injunction, which is the suit of the year 2008, where pleadings have completed and trial also was over. During the pendency of the suit, advocate commissioner was appointed, who, after inspecting the suit property filed a report on 20.2.2018. Aggrieved over the said report, the petitioner / plaintiff himself has filed objections, which is also on record. When that being the position, the suit is posted for arguments. At this stage, the present application has been filed by the petitioner / plaintiff to cross examine the advocate commissioner, and since it was rejected through the impugned order, this revision has been filed.

3. Heard the learned counsel for the petitioner, who would submit that certain aspects are to be elucidated only after cross examining the advocate commissioner and that is the reason, the present application was filed, which was not taken in a proper perspective and was rejected. Therefore, the impugned order is liable to be interfered with.

4. I have considered the said submission of the learned counsel for the petitioner and also perused the materials placed on record.

5. The learned Judge has recorded that it is the suit of the year 2008, where the advocate commissioner was appointed and he filed the report on 20.02.2018. Thereafter objection also was filed by the petitioner / plaintiff. Trial is also over and at this stage this application is filed to reopen and recall to cross examine the advocate commissioner. The veracity of the report filed by the advocate commissioner can very well be agitated by filing objections, which has already been done by the petitioner / plaintiff and that would be taken care of by the trial Court, which in fact, has been rightly mentioned in the impugned order itself.

6. After having gone through the said order, this Court feels that no interference is required in the said order, as the chance of rebutting or opposing the contents of the advocate commissioner's report has already been given and the chance also has been utilised properly by the petitioner, who has admittedly filed his objections to the advocate commissioner's report.

7. When that being so, at the fag end of the case when the suit is posted for arguments, these objections are raised, which can only be considered as to drag on the proceedings. Therefore, the learned Judge had of course rightly rejected the petition. In that view of the matter, this Court is not inclined to entertain this Civil Revision Petition. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

KST

To

The XVI Assistant Judge, City Civil Court, Chennai.

+1 CC to Mr.R.Thanjan, Advocate sr 96259.

C.R.P. (NPD) No.3696 of 2019

SSI (CO)

SP (27/12/2019)