



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

**C.R.P (MD) No.318 of 2018
and
C.M.P. (MD) No.1493 of 2018**

1.Anthonysamy

2.Fathimaselvi

...Petitioners / Petitioners/
Defendants

Vs.

Elanchezhiyan

... Respondent / Respondent /
Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 09.11.2017 made in I.A.No.1188 of 2017 in O.S.No.80 of 2012 on the file of the District Munsif Court, Aranthangi.

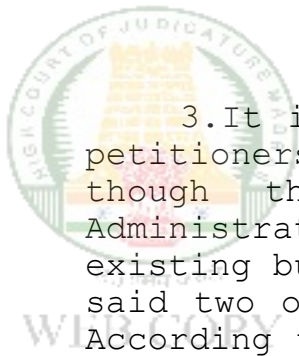
For Petitioners : Mr.N.Balakrishnan

For Respondent : Mr.T.Lenin Kumar

O R D E R

This Civil Revision Petition has been filed against the order, dated 09.11.2017 made in I.A.No.1188 of 2017 in O.S.No.80 of 2012 on the file of the District Munsif Court, Aranthangi.

2.The revision petitioners filed an application in I.A.No.1188 of 2017 for appointment of an Advocate Commissioner and the same was posted for final arguments after completing the examination of the witnesses. The Court below dismissed the application stating that the defendant has filed this application only for the purpose of dragging the matter.



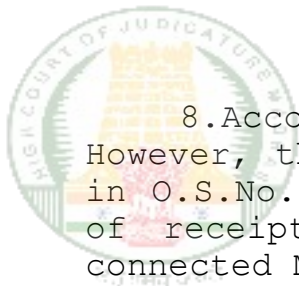
3.It is the contention of the learned counsel for the revision petitioners that the Court below failed to consider the fact that though the revision petitioners have examined the Village Administrative Officer and the Bill Collector to establish the existing building in the suit property put up by the petitioner, the said two officers failed to depose the reality as per the records. According to them, there is no building is in existence in the suit property. Therefore, to strengthen their case they filed the application for appoint of Advocate Commissioner and the same was wrongly dismissed by the Court below and therefore in order to find out the truth whether there is a building or not, the Advocate Commissioner is to be appointed and such report will be useful for this Court to pass any orders after hearing both sides.

4.On the other hand, the learned counsel for the respondent would contend that now the suit has been posted for final arguments. The suit is of the year 2012. The revision petitioners filed their written statement in the year 2013 and after that they have filed the present application only to strengthen their case and further it is not for the defendants and it is for the plaintiff to prove his case. In such an event, the Court below has rightly dismissed the application that there is no need for any reconsideration in the order passed by the Court below.

5.Heard the learned counsel appearing on both sides and perused the records.

6.Admittedly, the case is now posted for final arguments by the Court below and the revision petitioners have examined the Village Administrative Officer and the Bill Collector to establish the existence of the building. They have clearly deposed that there is no building in the suit scheduled property. When such being the case, the revision petitioners herein filed an application for appointment of Advocate Commissioner after examining the Village Administrative Officer and the Bill Collector in order to find out whether the building is in existence or not.

7.Under these circumstances, this Court is of the view that once the Village Administrative Officer and the Bill Collector were examined and they deposed evidence stating that no such building is in existence in the suit scheduled property, there is no need for appointment of Advocate Commissioner to find out once again whether there is any building or not. The Court can pass any orders based on the deposition of the Village Administrative Officer and Bill Collector. Hence, this Court does not find any infirmities in the order passed by the Court below.



8. Accordingly, this Civil Revision Petition is dismissed. However, this Court directed the Court below to dispose of the suit in O.S.No.80 of 2012 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar (CS-)

To

The District Munsif,
Aranthangi.

+1 CC to M/s.T.LENIN KUMAR, Advocate
(SR-87816[F] dated 19/09/2019)

**Order made in
C.R.P (MD) No.318 of 2018
18.09.2019**

rj2
ES/21.10.2019/3P/3C