

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23..01..2020
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.161 of 2020
and
C.M.P.No.900 of 2020

Selvi

... Petitioner/Plaintiff

-Versus-

1.Paramasivam
2.Rathinavel
3.Sudhakar Gandhi
4.Kanmani

... Respondents/ Defendants

Petition filed under Article 227 of the Constitution of India, praying to issue appropriate direction to the lower Court relating to the appontment of an Advocate commissioner in I.A.No.4 of 2019 in O.S.No.113 of 2019 on the file of the learned District Munsif of Rasipuram, by allowing this Civil Revision Petition.

For Petitioner : Mr.P.Subbiah, Senior Counsel
for Ms.Elizabeth Ravi

ORDER

This civil revision petition has been filed seeking a direction for early disposal of the application in I.A.No.4 of 2019 filed by the petitioner who is the plaintiff in O.S.No.113 of 2019 on the file of the learned District Munsif, Rasipuram, Namakkal District.

2. Considering the nature of the relief sought for in this revision and the other facts and circumstances of the case, this court is of the view that no notice is necessary as no prejudice would be caused to the other side if a direction is issued to the court below for early disposal of the application for appointment of Advocate Commissioner.

3. The petitioner is the plaintiff in the suit. The above said suit has been filed by the petitioner for a decree of declaration declaring that the plaintiffs have got exclusive right of ingress and egress to suit 'AB' path and for a declaration declaring that the plaintiff has got title over X,

X1, X2 portion of the suit property by way of adverse possession and for a consequential injunction against the defendants from interfering with the peaceful possession and enjoyment of the plaintiff over the same.

4. Pending suit, the petitioner herein filed an application for appointment of Advocate Commissioner for the purpose of noting down the physical features of the suit schedule property and the same has been pending. The grievance of the petitioner is that even though some of the respondents were served, some other respondents have been evading service of notice. When the application came up for hearing on 20.12.2019, it was adjourned to 20.01.2020. On 20.01.2020 also, the application was adjourned to a longer date.

5. I have heard the learned counsel for the petitioner and also perused the records carefully.

6. According to the learned senior counsel for the petitioner, there is no regular presiding officer appointed for the Court of District Munsif at Rasipuram and the Presiding Officer from the other court who was posted as In charge of the court has been adjourning the case to a longer date. Since there is some urgency involved, the appointment of Advocate Commissioner is absolutely necessary.

7. Considering the limited nature of the relief sought for in the revision petition and the other facts and circumstances of the case, this court directs the learned District Munsif (In Charge) to take up the application in I.A.No.4 of 2019 in O.S.No.113 of 2019 for enquiry on the next date of sitting at District Munsif Court at Rasipuram and dispose of the same within a period of four weeks thereafter. No costs. In view of the order passed in the revision petition, connected CMP is closed.

सत्यमेव जयते Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kmk

To

The District Munsif, Rasipuram, Namakkal District.

+lcc to Ms.Elizabeth Ravi , Advocate SR.No. 4954

C.R.P.No.161 of 2020

A.SK(27/01/2020)