

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 28.01.2020****C o r a m****The HONOURABLE MR.JUSTICE T.RAJA****CRP.PD. (MD) .No.2552 of 2012****and****M.P. (MD) .No.2 of 2012**

B.Sivakumar

... Petitioner/Respondent

Vs.

Mrs.S.Rajam

... Respondent/Plaintiff

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 11.10.2012 in I.A.No.1086 of 2011 in O.S.No.784/2009 on the file of the I Additional District Munsif Court, Nagercoil.

For Petitioner

:Mr.V.Balaji

For respondent

:Mr.K.Sreekumaran Nair

ORDER

This civil revision petition has been directed against the correctness of the impugned order dated 11th October 2012 passed in I.A.No.1086 of 2011 in O.S.No.784 of 2009, wherein, the sole issue raised is whether the defendant can examine the Commissioner to establish the alleged mistake in the commissioner's report.

2.When the defendant has filed an application in I.A.No.1086 of 2011 under Order 26 Rule 10(2) and Section 151 of Civil Procedure Code to examine the Advocate Commissioner in this regard, counter affidavit has also been filed by the plaintiff/respondent. After considering the issue at length, the learned First Additional District Munsif, Nagercoil, has held that it is not proper to direct the petitioner/defendant to examine the commissioner in the interim stage and if any necessity arises, the the Commissioner can be examined, during the examination of witnesses on the side of the defendant.

3.When the matter is pending for quite long time from 2012, this Court finds that there is no infirmity in the impugned order for the simple reason that the request of the defendant also has been granted by the trial court to examine the Advocate Commissioner, during the examination of witnesses on the side of the defendant. Hence, the defendant ought not to have wasted the time.



4. Therefore, finding no infirmity in the impugned order, this civil revision petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vs

To.

The I Additional District Munsif Court,
Nagercoil

+1 CC to Mr.K.SREE KUMARANNAIR, Advocate (SR-3493[F] dated
28/01/2020)

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