

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated : 19.03.2020

Coram

THE HONOURABLE MR.JUSTICE P.VELMURUGAN**C.R.P. (MD) .No.478 of 2020**
and C.M.P. (MD) .No.2945 of 2020

S.S.Subramaniam

... Petitioner/Appellant

Vs.

1.A.G.Anila Daniel

2.Daniel

3.A.S.Subramanian

4.S.Subramanian

.... Respondents/Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in I.A.No.2 of 2019 in A.S.No.61 of 2017 dated 04.01.2020 on the file of the 2nd Additional Sub-Court, Nagercoil.

For petitioner

:Mr.H.Arumugam

O R D E R

The petitioner is the plaintiff in O.S.No.271 of 2012. He filed the said suit for declaration and prohibitory injunction. After trial, the said suit was dismissed. Challenging the judgment and decree passed by the trial court, the petitioner filed an appeal in A.S.No.61 of 2017 on the file of the 2nd Additional Sub-Judge, Nagercoil. During pendency of the appeal, the petitioner filed an application in I.A.No.2 of 2019 to issue objections to the Commissioner's report. That petition was dismissed by the Appellate Court. Challenging the said order, the petitioner/appellant/plaintiff therein filed the present petition before this Court.

2.The learned counsel for the petitioner would submit that after filing the appeal, he found that there is some mistake in the report filed by the Commissioner and that was omitted to be pointed out before the trial court. Therefore, he wanted to file his objection for the commissioner's report. But, the learned Appellate Judge failed to consider the scope and object of the petition. Therefore, the order passed by the appellate Court is liable to be set aside.

3.Heard the learned counsel for the petitioner and perused the materials on record. Considering the nature of the order that



is going to be passed in this revision, notice to the respondents is dispensed with.

4.The petitioner filed the suit in the year 2012 along with an application to appoint an Advocate Commissioner. In the application filed by the petitioner, a Commissioner was appointed by the trial court. After inspection, the Commissioner also filed his report in the year 2015 itself. After trial, the trial court dismissed the suit on 13.07.2017. From 2015 to 2017, the Commissioner's report was in the file of the trial court and even the Commissioner's report was marked before the trial court by the petitioner and if at all he wants to raise any objection or if at all he wants any clarification, he could have raised it or he could have examined the Commissioner in the trial court itself. But, only in order to fill up the lacunae, now, he wanted to file his objection to the Commissioner's report in the year 2019. Under the said circumstances, this Court does not find any merit in this revision.

5.Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AD II)

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/ /2020

Sub Assistant Registrar(CS)

vs

To

1.The 2nd Additional Sub-Court,Nagercoil

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

C.R.P. (MD) .No.478 of 2020
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