

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP.PD.Nos.3712 &3713 of 2016
and CMP.Nos.18844 & 18845 of 2016

1.Savithiri Ammal
2.S.Peethambaram

.. Petitioners in both CRPs

Vs.

J.Satheeshkumar

.. Respondent in both CRPs

Prayer in CRP.No.3712 of 2016 : The Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order of the trial Court in I.A.No.120 of 2016 in O.S.No.151 of 2015 dated 07.06.2016 passed by the learned District Munsif, Vellore insofar as it denied the 2nd petitioner/2nd defendant the right to give evidence on behalf of the 1st petitioner/1st defendant.

Prayer in CRP.No.3713 of 2016 : The Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 27.06.2016 made in I.A.No.1112 of 2015 in O.S.No.151 of 2015 passed by the learned Principal District Munsif, Vellore.

For Petitioners: Mr.A.U.Ilango

For Respondent : Mr.V.R.Rajagopalan

COMMON ORDER

These Civil Revision Petitions are filed against the order and decree made in I.A.No.120 of 2016 and I.A.No.1112 of 2015 in O.S.No.151 of 2015 dated 07.06.2016 and 27.06.2016.

2. In both the civil revision petitions, the petitioners are the defendants in the suit filed by the respondent for permanent injunction restraining the petitioners/defendants from in any manner evicting the respondent from the suit schedule mentioned non-residential premises except by due process of law. While pending the suit, the petitioners filed petition to appoint an Advocate Commissioner to note down the physical features of entire property and they have also filed another application to appoint the second petitioner as the power of attorney of the first petitioner to conduct the suit on her behalf. After filing the counter by the respondent herein, both the petitioners as well as the respondent did not appear before the Court below. On perusal of the petition and the counter, the Court below allowed the petition in respect of

appointing the second petitioner as power of attorney of the first petitioner herein. By allowing the same, the Trial Court imposed a condition that not to give evidence on behalf of the first petitioner herein.

3. When the Court below allowed the second petitioner to represent on behalf of the first petitioner, he can be permitted to depose on behalf of the first petitioner herein. In fact, the second petitioner is also one of the defendant in the suit and as such, he could very well depose on his behalf as well as on behalf of the first petitioner herein. Accordingly, the order passed by the Court below in I.A.No.120 of 2016 in O.S.No.151 of 2015 is set aside and the petition in CRP.No.3712 of 2016 filed by the petitioners is allowed.

4. Insofar as the appointment of an Advocate Commissioner is concerned, the Court below dismissed the same for the reason that it was filed only to collect evidence through the Advocate Commissioner. The respondent is the plaintiff who filed the suit for permanent injunction restraining the petitioners from evicting him from the suit schedule mentioned property except by due process of law. Admittedly, the petitioners are the tenants under the respondent herein. While doing so, there is absolutely no need to appoint any Advocate Commissioner to note down the physical feature of the suit property. Therefore, the appointment of an Advocate Commissioner would amount to collect, therefore, this Court finds that there is no irregularity in the order passed by the Court below and CRP.No.3713 of 2016 is dismissed accordingly.

No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Principal District Munsif,
Vellore.

+2cc to Mr.V.K.Rajagopalan, Advocate Sr.No.9095 & 9096

akm/18.03.21 /2P-4C/

CRP.PD.Nos.3712 &3713 of 2016