



C.R.P.(P.D).Nos.1430 & 1431 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.11.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(P.D)Nos.1430 & 1431 of 2020
and C.M.P.No.8287 of 2020**

K.Alli

...Petitioner

Vs.

V.Vijayalakshmi

...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decree dated 13.02.2020 made in I.A.No.97 of 2020 in O.S.No.06 of 2016 on the file of District Munsif Court, Dharmapuri by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Rajaramani
For Respondent : Mr.V.Sakkarapani

ORDER

C.R.P.No.1430 of 2020 and C.R.P.No.1431 of 2020 have been filed challenging orders passed in I.A.No.97 of 2020 and I.A.No.98 of 2020 in O.S.No.6 of 2016 on the file of the District Munsif Court, Dharmapuri.



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2.I.A.No.97 of 2020 was filed under Section 151 C.P.C., for reopening the case of the respondent/plaintiff and I.A.No.98 of 2020 was filed for producing the copy of the Advocate Commissioner's report in O.S.No.17 of 2015 on the side of the respondent/plaintiff. These applications were filed by the respondent stating that in O.S.No.17 of 2015 the Advocate Commissioner inspected the property of respondent and filed a report. Respondent had also admitted in her evidence the inspection of Advocate Commissioner and filing Advocate Commissioner's report in O.S.No.17 of 2015. This report will shed light to the dispute in this case and will help the Court in resolving the issues. Therefore, these petitions were filed. Both these applications were allowed on payment of costs. Challenging the said order, these Civil Revision Petitions filed by the petitioner/defendant.

3.The learned counsel for the petitioner submitted that petitioner is not party to O.S.No.17 of 2015 and Advocate Commissioner's report filed in O.S.No.17 of 2015 cannot sought to be produced in this case. In reply, the learned counsel for the respondent submitted that respondent is plaintiff



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in O.S.No.17 of 2015 and she has filed a typed set of papers, detailed cross examination about the filing of the Advocate Commissioner's report and also measurements given in the Advocate Commissioner's report.

4.Considered rival submissions and perused the records.

5.From the submissions made, it is evident that the respondent filed a petition to recall and a petition for producing Advocate Commissioner's report in O.S.No.17 of 2015. Admittedly, petitioner is not a party to O.S.No.17 of 2015. O.S.No.17 of 2015 is still pending and is not yet disposed. Reliability of Advocate Commissioner's report will depend upon the corroborative evidence produced by the parties. Merely on the basis of Advocate Commissioner's report, a case cannot be decided. When this proposition applies to O.S.No.17 of 2015, where the Advocate Commissioner was appointed and filed a report, is not known how the Advocate Commissioner's report filed in O.S.No.17 of 2015 is sought to be relied in this suit in O.S.No.6 of 2016, especially when the petitioner is not a party to O.S.No.17 of 2015. Therefore, this Court finds that allowing the



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petition and recall of PW1 for the purpose of producing Advocate Commissioner's report in O.S.No.17 of 2015 is not in accordance with law and liable to be set aside and accordingly set aside.

6.Resultantly, these Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition stands closed.

7.It is reported that the suit is posted for arguments before filing the petition. Therefore, the learned District Munsif, Dharmapuri is directed to dispose the suit as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order.

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02.11.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No



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To

- 1.The District Munsif,
Dharmapuri
- 2.The Section Officer,
VR Section,
High Court of Madras.



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G.CHANDRASEKHARAN.J.

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