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C.R.P.No.1769 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

C.R.P.(PD).No.1769 of 2017

and

C.M.P.No.8319 of 2017

[video conferencing]

G.Rani

... Petitioner

Vs.

1.B.Elumalai

2.S.Sridhar

... Respondents

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.02.2017 passed in I.A.No.10200 of 2016 in O.S.No.2224 of 2016 by the II Assistant City Civil Court, Chennai.

For Petitioner : Mrs.G.Sumitra

For Respondents : Mr.P.J.George

ORDER

This Civil Revision Petition has been filed by the petitioner, to set aside the Fair and Decretal order dated 13.02.2017 passed in I.A.No.10200 of 2016 in O.S.No.2224 of 2016 by the II Assistant City Civil Court, Chennai.



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2.The petition in I.A.No.10200 of 2016 has been filed by the respondents herein for appointment of Advocate Commissioner to inspect both the tenements bearing Corporation Door No.892, 10th Cross Street, Block No.45, V.O.C.Nagar, Tondiarpet, Chennai 600 081 and to submit a report regarding the actual illegal constructions by the respondent there. The learned V Assistant Judge allowed the petition by appointing Advocate Commissioner. Aggrieved by the said order, the petitioner has come up with this Civil Revision Petition.

3.The learned counsel for the respondents herein would submit that this Civil Revision Petition is to be dismissed as infructuous since the Advocate Commissioner had already inspected the property and filed his report too. The learned counsel would further submit that knowing very well about the fact of the inspection by the Advocate Commissioner and about his filing of report, this petition has been filed and the respondents were put to much hard ship because of the pendency of this frivolous Civil Revision Petition and sought for dismissal of this petition with exemplary costs.



4.The learned counsel for the petitioner would contend that the Advocate Commissioner did not serve proper notice for inspecting the suit property and he has also not served the copy of his report which made the petitioner to prefer this petition.

5.The above contention made by the learned counsel for the petitioner is to be rejected simply since nobody did curtail her from representing the fact before the concerned Judge. Instead of making proper representation or filing objection before the Trial Court, filing of such petition definitely would have caused much hardship to the respondents and the petition deserves for dismissal with exemplary costs.

6.Accordingly, this Civil Revision Petition is dismissed with cost of Rs.5,000/- [Rupees Five Thousand Only], to be paid by the petitioner to the respondents. Consequently, the connected Miscellaneous Petition stands closed.

10.11.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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S.KANNAMMAL,J.

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To

1. The II Assistant City Civil Court, Chennai.
2. The Section Officer,
V.R. Section, High Court of Madras.

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