



C.R.P.No. 2446 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No. 2446 of 2016

and

C.M.P.No.12670 of 2016

Asha

....

Petitioner

Vs

1. L.Mahalakshmi

2. G.Jayakumar

....

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records and set aside the fair and decreetal order dated 16.03.2016 made in I.A.No.16114 of 2015 in O.S.No.244 of 2013 passed by the learned IV Assistant Judge, City Civil Court, Chennai and allow the above Revision Petition.

For Petitioner	:	Mr.M.S.Velusamy
For R1	:	Mr.B.Sudarshan
		for Mr.M.Ganesan
For R2	:	Notice served

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 16.03.2016 made in I.A.No.16114 of 2015 in O.S.No.244 of 2013 on the file of the IV Assistant Judge, City Civil



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Court, Chennai, thereby dismissing the petition for seeking appointment of Advocate Commissioner.

2. The first respondent filed a suit in O.S.No.244 of 2013 for permanent injunction as against the petitioner and the second respondent herein. Pending suit, the petitioner also filed counter claim seeking mandatory injunction to remove the Sintex Tank put up by the first respondent in his portion. Pending counter claim, the petitioner also filed a petition to appoint an Advocate Commissioner to find out the location of the Sintex Tank put up by the first respondent and also find out the separate water connection from the sump to the Sintex Tank put up by the first respondent. After cross examination of P.W.1, though several opportunities were given to the petitioner to cross examine P.W.1, the petitioner failed to cross examine him. Thereafter, the evidence of the plaintiff was closed on 29.10.2015. Thereafter the petitioner come forward with the petition to find out the location of the Sintex Tank put up by the first respondent and also find out the separate water connection from the sump to the Sintex Tank put up by the first respondent. The prayer sought for in this petition is nothing but to collect the evidence for the purpose of strengthening the case of the counter claim. Therefore, in



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the suit for injunction and also mandatory injunction, the Advocate
Commissioner cannot be appointed for collecting evidence, the Court
below has rightly dismissed the petition.

3. In view of the above, this Court finds no merits in this
petition. Accordingly, this Civil Revision Petition stands dismissed.
Consequently, connected miscellaneous petition is closed. No costs.

06.12.2022

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

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To

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



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G.K.ILANTHIRAIYAN, J.

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