



C.R.P(PD).No.2102 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).No.2102 of 2022

Chandra Ananthasayanam

... Petitioner

Vs

1. Dr.K.Selvam

2. Anuman

... Respondents

Prayer:- Petition is filed under Article 227 of the Constitution of India, pleaded to direct the Hon'ble Sub-Ordinate Judge, Tirupattur, Vellore District for speedy disposal of A.S.No.16 of 2012 within a stipulated time as may be fixed by this Hon'ble Court.

For Petitioner : Ms.R.Maheswari

ORDER

This Civil Revision Petition has been preferred seeking for a direction for speedy disposal of the appeal suit pending in A.S.No.16 of 2012 on the file of the Subordinate Judge, Tirupattur, Vellore District.



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WEB COPY 2. The revision petitioner is the appellant in A.S.No.16 of 2012 and the defendant in the suit in O.S.No.117 of 2006 filed by the plaintiff/1st respondent for the relief of declaration and permanent injunction; the said suit was decreed by the trial Court on 29.03.2012; thereafter, the first appeal was preferred by the petitioner in A.S.No.16 of 2012 and the same was also dismissed on 23.07.2013. Aggrieved over the Judgment of the First Appellate Court, second appeal in S.A.No.1300 of 2013 has also been filed by the petitioner and the same was disposed on 13.07.2018.

3. In the Judgment passed in the second appeal, this Court has given certain directions to the First Appellate Court to appoint an Advocate Commissioner within **ten days** on receipt of the communication of the order to identify the properties in question with a qualified Surveyor and file a report before the First Appellate Court within a period of **one month** from the date of receipt of the warrant and on receipt of the report from the Advocate Commissioner, the first Appellate Court is directed to consider the same and dispose of the appeal in



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A.S.No.16 of 2012 afresh in accordance with law within a period of *three months*

from the date of the receipt of a copy of the order.

4. Learned counsel for the revision petitioner submitted that despite specific time limits were prescribed in the order of the High Court, the appeal suit is still pending without disposal and hence, a direction should be given for speedy disposal.

5. The records would show that the second appeal itself has been disposed on 13.07.2018. At any cost, the orders would have been received by the Court within few days. Despite certain directions were given as to the period in which the Advocate Commissioner should be appointed and his report to be filed and thereafter, for the disposal of the appeal, it is seen that the matter is still pending.

6. Learned counsel for the petitioner submitted that the respondents had sought the leave of the Court to examine the Surveyor and the same was allowed and the matter is pending for examination of the Surveyor, who accompanied the



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Commissioner. However, the respondents did not choose to pay batta to some of the witnesses and hence, the matter is getting protracted.

7. The records would show that the case has reached the stage of arguments and thereafter, the prayer sought to examine the Surveyor was granted by the trial Court. In such a context, it is imperative to impress the First Appellate Judge to take into consideration of the earlier direction of this Court and dispose the matter at the earliest.

8. The records would also show that the hearings were not adjourned on day to day basis, despite specific directions given by the High Court, by fixing time limits. If the directions of the High Court are not taken in its letter and spirit, that may invite serious consequences. Taking into consideration of the earlier directions given by this Court on 13.07.2018 in S.A.No.1300 of 2013, the learned Subordinate Judge, Tirupattur, Vellore District has to be directed to complete the trial.



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9. In the result, the Civil Revision Petition is disposed of and the learned Subordinate Judge, Tirupattur, Vellore District is directed to complete the trial by giving shorter hearings, preferably on day to day basis and to dispose the matter in accordance with the earlier direction of this Court. No costs.

12.07.2022

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Index : Yes

Internet : Yes

Speaking Order

Note: Issue order copy on 14.07.2022.

To

1. The learned Sub-Ordinate Judge,
Tirupattur, Vellore District.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.
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