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C.R.P.No.3699 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3699 of 2022
and C.M.P.No.19540 of 2022

T.Selvaraj

... Petitioner

VS

K.Karthikeyan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 01.09.2022 made in I.A.No.4 of 2021 in O.S.No.67 of 2019 on the file of the III Additional District and Sessions Judge, Erode at Gobichettipalayam by allowing the above Civil Revision Petition.

For Petitioner : Mr.A.V.Arun
For Respondent : Mr.SP.Yuaraj

ORDER

The civil revision petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner/defendant seeking appointment of an Advocate Commissioner to value the building in the suit property with the help of Civil Engineer.



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2. The respondent herein filed a suit for recovery of possession against the petitioner. In the plaint averment, the respondent had stated that on 11.04.2016, there was an agreement between the petitioner and respondent and as per the terms of agreement, the respondent received Rs.4,00,000/- from the petitioner and permitted the petitioner to reside in the suit building, in lieu of the payment of interest for two years. The plaintiff filed a suit for recovery of possession by valuing the suit at Rs.29,74,627.

3. The petitioner herein filed a written statement, wherein he specifically denied the valuation adopted by the respondent/plaintiff. In paragraph 8 of his written statement, he specifically denied the valuation adopted by the respondent with regard to the suit property. Thereafter, the petitioner has filed the instant application in I.A.No.4 of 2021 seeking appointment of an Advocate Commissioner to assess the value of the suit building with the help of qualified Civil Engineer and the said application was resisted by the respondent by filing counter.

4. The Court below dismissed the petition filed by the revision



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petitioner on the ground that the main issue to be decided in the case is with regard to the written agreement pleaded by the respondent, consequently appointment of Advocate Commissioner is not at all necessary. In the written statement filed by the revision petitioner, he specifically disputed the value of the suit building and hence, in order to assess correctness of the valuation adopted by the respondent, the value of the suit building has to be assessed. The best mode to assess the value of the building would be to survey the building with the help of Civil Engineer. In the instant application, the revision petitioner seeks appointment of Advocate Commissioner to assess the value of the building with the help of qualified Civil Engineer. Therefore, the reports submitted by the Advocate Commissioner based on the assessment made by the Civil Engineer will certainly help the Court come to the correct conclusion with regard to the valuation adopted by the plaintiff.

5. In view of the controversy in the case with regard to the value, this Court feels appointment of Civil Engineer to assess the value of the building is absolutely necessary. Hence, the order passed by the Court below is set aside and the Court below is directed to appoint an Advocate Commissioner with a direction to take assistance of qualified Civil Engineer to assess the value of



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the building stands in the suit property. The report of the Advocate Commissioner shall be filed before the Court within a period of six(6) weeks from the date of receipt of a copy of this order.

6. The learned counsel for the respondent made a request for fixing outer time for disposal of the main suit. The suit is of the year 2016 and it is filed for recovery of possession. Therefore, this Court is inclined to issue a direction to the Court below to dispose of the main suit within a period of six (6) months from the receipt of Advocate Commissioner's report.

7. With these directions, the Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2022

Index : Yes / No

Internet : Yes / No

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S.SOUNTHAR, J.
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To

The III Additional District and Sessions Judge,
Erode,
Gobichettipalayam.

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