



CRP(PD)(MD)No.1584 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1584 of 2022

CMP(MD)No.6807 of 2022

Rajappan

... Petitioner

versus

1. Franklin

2. Village Administrative Officer,
Pacode 'A' Village,
Pacode Post,
Vilavancode Taluk,
Kanyakumari District.

3. Tahsildar,
Vilavancode Taluk,
Kuzhithurai Post,
Kanyakumari District.

4. District Collector,
Kanyakumari District,
Nagercoil & Post
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

Petition filed under Article 227 of the Constitution of India,



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against the fair and decreetal order dated 21.06.2022 passed in I.A.No.3 of 2022 in O.S.No.173 of 2019 on the file of the Sub Court, Kuzhithurai.

For Petitioner : Mr.S.Sivakumar

For R2 to R4 : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This Civil Revision Petition is filed against the order dated 21.06.2022 made in I.A.No.3 of 2022 in O.S.No.173 of 2019 on the file of the Sub Court, Kuzhithurai.

2. The petitioner herein is the plaintiff in O.S.No.173 of 2019. He filed the said suit for declaration and cancellation of sub division. The suit is ripe for trial. When the plaintiff was examined in the box, during the cross examination, the defendant's counsel asked the plaintiff as to whether he is prepared to file commission application to establish his case and in reply, the plaintiff has stated 'yes'. Having stated so, the plaintiff/petitioner herein has taken out an interlocutory application in I.A.No.3 of 2022 under Order XXVI Rule 9 C.P.C. for



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appointment of an Advocate Commissioner. However, the trial Court, by order dated 21.06.2022, dismissed the said application holding that the report of the Advocate Commissioner is not at all required for the issue involved in the suit.

3. It is also brought to the knowledge of this Court that the plaintiff/petitioner has already filed a Civil Revision Petition in CRP(MD)No.107 of 2022 for speed disposal of the suit in O.S.No.173 of 2019. This Court, by order dated 31.01.2022, issued a direction to the trial Court to complete the trial on or before 31.07.2022.

4. Since the Trial Court has already held that in the issue involved in the case, the Advocate Commissioner's report is not at all required, this Court is not inclined to interfere with the order of the trial Court. Therefore, the apprehension of the plaintiff/petitioner that he has not taken out an application under Order XXVI Rule 9 C.P.C. does not arise in this case as the Trial Court itself held that there is no



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requirement of Advocate Commissioner's report in the issue involved in this case.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.08.2022

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Index : Yes / No

Internet: Yes / No.

To

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2. Tahsildar,
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B.PUGALENDHI, J.

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