



CRP(PD)(MD)No.1545 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1545 of 2022

and

CMP(MD)No.6654 of 2022

S.Sankara Subramanian

... Petitioner

versus

Iyyappan

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 09.06.2022 passed in I.A.No.2 of 2021 in O.S.No.15 of 2014 on the file of the District Munsif, Shenkottah.

For Petitioner : Mr.V.Ramakrishnan

ORDER

This Civil Revision Petition is filed against the order dated 09.06.2022 passed in I.A.No.2 of 2021 in O.S.No.15 of 2014 on the



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file of the District Munsif, Shenkottah.

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2. The petitioner herein is the defendant in the suit in O.S.No.15 of 2014. He filed an interlocutory application in I.A.No.2 of 2021 under Order XXVI Rule 1 C.P.C. to appoint an Advocate Commissioner to cross examine the defendant as he is bedridden.

3. The learned counsel appearing for the petitioner submits that the defendant/petitioner herein is aged about 85 years and since he is suffering from old age ailments, he is advised to take rest and not to go anywhere. He further submits that the defendant/petitioner herein is also not in a position to stand for a long time. Therefore, on this ground, the above said interlocutory application has been filed for appointing an Advocate Commissioner to cross examine the petitioner/defendant during the trial in O.S.No.15 of 2014. However, the trial Court, without considering the reasons, dismissed the said application. Therefore, he prayed for direction to the trial Court for



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appointment of an Advocate Commissioner while cross examining the defendant/petitioner herein.

4. This Court considered the submissions made on behalf of the petitioner.

5. A perusal of the order impugned in this petition reveals that the trial Court, after taking note of the fact that the Court is situated nearby his residence and also the photograph produced by the plaintiff/respondent that the defendant/petitioner alone went to the Bank and collected money from the Bank, dismissed the said application. The trial Court has also held that if the defendant/petitioner is having any problem, he can sit and give deposition before the Court. Therefore, this Court does not find fault with the order of the trial Court.

6. According to the learned counsel for the petitioner that the



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petitioner is not bedridden, however, he is advised to take rest and therefore, he has filed the above said interlocutory application.

7. The petitioner, if so advised, can take assistance of his Doctor while giving evidence before the Court.

8. Accordingly, the Civil Revision Petition is dismissed. However, considering the age of the petitioner/defendant, the trial Court is directed to conclude the trial and dispose of the suit as expeditiously as possible, not later than four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

29.07.2022

Index : Yes / No.
Internet : Yes / No.
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To
The District Munsif,
Shenkottah.



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B.PUGALENDHI, J.

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