



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.07.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1964 of 2019

1.S.Manikandan

2.S.Sarangapani

...Petitioners

Vs.

1.S.Giri

2.Mrs.P.C.Saranya

...Respondents

PRAYER:Civil Revision Petition filed under Article 227 of the Constitution of India to allow this Civil Revision Petition, to set aside the petition and docket order dated 04.04.2019 passed in I.A.No.3 of 2019 in O.S.No.2261 of 2019 on the file of IVth Assistant City Civil Judge, Chennai and the consequent proceedings conducted by the Advocate Commissioner pursuant thereto and the report if any filed by the Advocate



Commissioner.

For Petitioners : Mr.B.Mohan
For Respondents :
For R1 : Mr.M.Sarvana Kumar
For R2 : -Not Ready in Notice-

ORDER

This Civil Revision Petition has been filed against the order of appointment of an Advocate Commissioner *ex-parte* in I.A.No.03 of 2019 in O.S.No.2201 of 2019 dated 04.04.2019. The Advocate Commissioner was appointed by the Court below in order to inspect the suit property and to submit a report. The Commissioner was also directed to note down the physical features of the suit temple and to find out whether there are any unauthorized construction therein.

2. The Commissioner is said to have inspected the property on 10.05.2019. The typed set filed by the petitioner reveals that notice was given by the Advocate Commissioner to all the parties.

3. Mr.B.Mohan would state that the Court ought not to have



appointed an Advocate Commissioner, when there is no dispute as regards the existence of the temple.

4. I am not inclined to interfere at this stage because it is only *ex-parte* appointment of an Advocate Commissioner. Whatever objection the Civil Revision Petitioner has, he can raise, by way of counter to the interlocutory application. If I.A.No.2 of 2019 is accepted, then the Advocate Commissioner's report becomes the part of the suit proceedings. If I.A.No.3 of 2019 is dismissed, after the receipt of the counter and after hearing the parties, then the Advocate Commissioner's report automatically stands effaced from the record of the Court. Therefore, I pass the following order:

(I). The Petitioner in CRP is permitted to file a counter to I.A.No.3/2019 within a period of four (4) weeks from today. Without prejudice to its contentions in the suit as well as in the counter in I.A.No.3 of 2019, is permitted to file his objections to the Advocate Commissioner's Report within a period of two (2) weeks from today.

(II). After receipt of the counter, the Trial Court shall apply its mind



as to whether application should be allowed or dismissed.

(III). The order dated 04.04.2019 is only a *prima-facie* finding that the suit requires an appointment of an *ex-parte* Advocate Commissioner. The Court always has the power, either to allow or to dismiss the application after receipt of the counter from the contesting respondent.

5. With the above, this Civil Revision Petition is disposed of. No costs.

12.07.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
nst

To:
The
IVth Assistant Judge,
City Civil Court,
Chennai.



WEB COPY



5

V. LAKSHMINARAYANAN, J.

nst

C.R.P.No.1964 of 2019

14.07.2023



WEB COPY



6

(2/3)