



C.R.P(MD)No.3159 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P(MD)No.3159 of 2023

T.Vijayakumar

... Petitioner/Petitioner/Defendant

Vs.

J.Valarmathi

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of frequent adjournment, without issuing the warrant to the learned Advocate Commissioner as per the order made in I.A.No: 3/2021 in O.S.No.30 of 2021 dated 01.03.2022 on the file of the Additional District Court, Virudhunagar District at Srivilliputhur and lastly adjourned to 29.11.2023.

For Petitioner : Mr.M.Thirunavukkarasu

ORDER

This Civil Revision Petition has been filed against the order of frequent adjournment, without issuing the warrant to the Advocate



C.R.P(MD)No.3159 of 2023

WEB COPY

Commissioner as per the order made in I.A.No. 3 of 2021 in O.S.No. 30 of 2021 dated 01.03.2022 on the file of the Additional District Court, Virudhunagar District at Srivilliputhur.

2. In view of the relief sought for in this revision, notice to the respondent is dispensed with. This Civil Revision Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner submits that the respondent herein filed a suit for recovery of money originally before the Principal District Court at Srivilliputhur in O.S.No.30 of 2021 and the same was transferred to the file of the Additional District Court at Srivilliputh due to administrative reason vide order dated 04.07.2023 and now, the case is pending before the Additional District Court at Srivilliputhur. In that suit, the petitioner, as the defendant, has filed I.A.No.3 of 2021 for appointment of an Advocate Commissioner to compare the petitioner's admitted signature with the disputed signature in the suit pro-note by sending



C.R.P(MD)No.3159 of 2023

the same to the handwriting expert. The said Interlocutory Application was allowed on 01.03.2022. The petitioner herein has paid the fee to the Advocate Commissioner as per the said order.

5. The learned counsel for the petitioner further contended that nearly one and half years have passed after allowing the petition for appointment of Advocate Commissioner and till now, the warrant is not issued to the Advocate Commissioner. The learned counsel for the petitioner also contends that the court below has been adjourning the proceedings citing "For filing of Commissioner Report and Plan" without even issuing the warrant to the Advocate Commissioner. The learned counsel also submits that without issuance of warrant to the Advocate Commissioner, he could not send the documents for comparison of signature of the petitioner to the handwriting expert and to file a report. He prays for a direction to the court below to issue warrant to the Advocate Commissioner.



C.R.P(MD)No.3159 of 2023

WEB COPY

6. Heard the learned counsel for the petitioner and perused the records available on record.

7. The suit is filed for recovery of money. By its order dated 01.03.2022, the court below allowed the petition to appoint an Advocate Commissioner. In that order, the court below clearly mentioned the remuneration of the Advocate Commissioner, the specific purpose for appointing the Advocate Commissioner and the fees to be paid to the Expert. Further, the case was adjourned for filing of Advocate Commissioners's report from that date. Under these circumstances, the court below ought not to have delayed the issuance of warrant for such a long period without any valid reason.

8. Considering the facts and circumstances of the case, this Court is inclined to issue a direction to the court below in the interest of justice.



C.R.P(MD)No.3159 of 2023

WEB COPY

9. Accordingly, the Additional District Judge, Virudhunagar District at Srivilliputhur, is directed to issue warrant to the Advocate Commissioner forthwith to enable him to execute the warrant.

10. In the result, this Civil Revision Petition is allowed.

11. No costs.

01.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To

The Additional District Court, Virudhunagar District at
Srivilliputhur



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C.R.P(MD)No.3159 of 2023

BATTU DEVANAND, J.

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C.R.P(MD)No.3159 of 2023

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