



C.R.P.(MD)No.3179 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3179 of 2023

and

C.M.P.(MD)No.16384 of 2023

Muthusundaram

... Petitioner/
Petitioner/
Defendant

Vs.

Ramasubramanian

... Respondent/
Respondent/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order I.A.No.5 of 2023 in O.S.No.47 of 2018 dated 22.09.2023 on the file of the learned Principal District Munsif Court, Ambasamudram and allow this Civil Revision Petition.

For Petitioner : Mr.R.Rajaraman

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.5 of 2023 in O.S.No.47 of 2018 dated 22.09.2023, on the file of the



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Principal District Munsif Court, Ambasamudram, dismissing the application to scrap the Advocate Commissioner's report filed in I.A.No.2 of 2019 in O.S.No.47 of 2018.

2. It is seen from the records that the respondent/plaintiff has filed the suit in O.S.No.47 of 2018 for mandatory injunction for removal of windows and sunshades shown in AE, FG and AA1 in the rough sketch and that pending suit, the revision petitioner/defendant has filed the commission application in I.A.No.2 of 2019 and an Advocate Commissioner was appointed.

3. It is further seen from the records that the above Advocate Commissioner has filed a report, for which, both the parties have filed their objections. The learned trial Judge, considering the objections filed by both the parties, has passed an order to accept the Advocate Commissioner's report and that thereafter, the above application in I.A.No. 5 of 2023 came to be filed seeking orders to scrap the Advocate Commissioner's report and to appoint an another Advocate Commissioner. The learned trial Judge, by observing that the dismissal of the commission application filed in the connected suit is not a ground to appoint another



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Advocate Commissioner in the present suit and that though two suits were pending for more than five years, without proceeding with the trial, the above application came to filed only to drag on the proceedings, dismissed the application.

4. As rightly observed by the learned trial Judge, the reason assigned for scrapping the Advocate Commissioner's report is not sufficient enough to grant the relief claimed.

5. Considering the entire facts and circumstances, the impugned order dismissing the application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

6. In the result, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

06.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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K.MURALI SHANKAR,J.

csn

To

1. The Principal District Munsif Court,
Ambasamudram.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P.(MD)No.3179 of 2023
and
C.M.P.(MD)No.16384 of 2023

Dated : 06.12.2023