



C.R.P.(PD).No.1945 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1945 of 2019
and CMP.No.12746 of 2019

P.Kesavan

... Petitioner

vs.

M/s.Hyder Trading Company (P) Limited,
Director S.A.J.Kamal Batcha,
S/o.Abdul Jabbar,
New No.47, Old No.63,
Usman Road, T.Nagar,
Chennai – 600 017.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order passed by the learned XIII Assistant City Civil Judge, Chennai, on 18.03.2019 in I.A.No.16184 of 2017 in O.S.No.3532 of 2017.

For Petitioner : Mr.A.Velmurugan

For Respondent : Not ready in notice



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking appointment of Advocate commissioner to note down the physical features.

2. The respondent herein filed a suit for injunction restraining the petitioner not to put up any new construction in the suit property. Pending suit, the instant application has been filed by the petitioner seeking appointment of Advocate Commissioner.

3. It is the case of the petitioner that the building in suit property which was constructed by him suffered damage due to fire accident and he had made an attempt to repair the building and the instant suit has been filed by the respondent in order to cause inconvenience. It was further stated in the affidavit that the respondent/plaintiff had been continuously causing harassment to the petitioner by making an attempt to damage the building with the help of rowdy elements.



4. The trial Court dismissed the application on the ground that

the petitioner himself admitted in his affidavit that repairing work was already completed and hence the trial Court observed that in a suit for injunction, there was no necessity for appointment of Advocate Commissioner to note down the physical features when petitioner himself admitted that he had completed the repair work.

5. The relief sought for in the suit is for injunction restraining the petitioner from putting up any construction in the suit schedule property. The issue to be decided in the suit is entitlement of the petitioner to put up construction in the suit property. In order to decide the said issue the physical features of the suit property is not at all required. Therefore, the trial Court rightly dismissed the application filed for appointment of Advocate Commissioner on the ground that the same was not required in a suit for injunction, especially when petitioner admitted that he had already completed repair in the suit property which suffered the damage due to the fire accident.



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6. Taking into consideration the main suit is of the year 2017, the

trial Court is directed to dispose of the same as expeditiously as possible.

7. I do not find any error in the order passed by the trial Court.

Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

28.02.2024

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

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To

The XIII Assistant City Civil Judge,
Chennai.



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S.SOUNTHAR, J.

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