



C.R.P.(PD) (MD) Nos.429 and 430 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD) (MD) Nos.429 and 430 of 2021

and

C.M.P.(MD) No.2338 of 2021

Mani

... Petitioner/Petitioner/
Defendant in both cases

Vs.

1.Singaram

2.Suresh

3.Dharmalingam

4.Saravanan

... Respondents/Respondents/
Plaintiffs in both cases

Prayer in both cases: Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 04.03.2020 passed in I.A.Nos.702 and 875 of 2015 respectively in O.S.No.40 of 2010 on the file of the District Munsif Court, Musiri.

In both cases:

For Petitioner : Mr.G.S.Ashok Adhithyan

For Respondents : No appearance



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COMMON ORDER

Though the civil revision petitions are of the year 2021, so far notice was not ordered on the respondents.

2. These two civil revision petitions are arising out of a common order dated 04.03.2020 passed in I.A.Nos.702 and 875 of 2017 filed by the petitioner herein.

3. The petitioner herein is the sole defendant in the suit. The said interlocutory applications in I.A.Nos.702 and 875 of 2017 were filed to reject the report filed by the Advocate Commissioner and also to re-issue warrant to the Advocate Commissioner for re-inspection. Originally, the Advocate Commissioner was appointed at the instance of the respondents herein, who are the plaintiffs in the suit in O.S.No.40 of 2010. Pursuant to the same, the Advocate Commissioner having inspected the subject property, filed his report. As submitted by the learned counsel for the petitioner, the petitioner herein as well as the respondents raised their objections against the report



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submitted by the Advocate Commissioner, however, the respondents herein have not taken any steps either for re-issue of the warrant or for appointing another Advocate Commissioner. But surprisingly, the petitioner herein chose to file petitions for rejecting the said report of the Advocate Commissioner and to re-issue the warrant.

4. As the Advocate Commissioner was appointed at the instance of the respondents/plaintiffs, it is for the respondents to pursue the matter further either for re-issue of the warrant or otherwise. But the petitioner herein filed applications for rejecting the said report of the Advocate Commissioner and for re-issue of the warrant. If the petitioner has got any cause of action or feels it necessary for appointment of an Advocate Commissioner for any purpose, it is for the petitioner to seek such appointment independently, but not in furtherance of the appointment sought by the respondents herein. In case, if the petitioner has got any objection on the report of the Advocate Commissioner already submitted, the same will be considered by the learned trial Court at an appropriate time and on examining the Advocate Commissioner.



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5. Taking into consideration the fact that the suit is of the year 2010 and the civil revision petitions are of the year 2021, and so far no notice is ordered, this Court is not inclined to order notice now and start the proceedings afresh at this stage.

6. Further, in terms of the docket order passed by this Court on 02.02.2024, a status report is placed before this Court bringing to the notice of this Court about the status of the suit. As seen from the same, trial has already commenced and P.W.1 was already examined. In view of the same, this Court is not inclined to entertain the civil revision petitions at this stage and both the civil revision petitions are dismissed.

7. However, in case, if the petitioner herein feels that appointment of the Advocate Commissioner is necessary for prosecuting the suit appropriately at his instance, it is open for the petitioner to make such application before the learned trial Court. In case, if any such application is filed, the same shall be considered on its own merits without being influenced



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by the orders under revision. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
ABR

To

The District Munsif,
Musiri.



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MUMMINENI SUDHEER KUMAR, J.

ABR

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