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C.R.P.(MD)No.1546 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1546 of 2024 and
C.M.P.(MD)No.9127 of 2024

A.Rajeshwari

... Petitioner/Respondent /
Defendant

Vs.

G.Manokaran

... Respondent/Petitioner /
Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.04.2024 passed by the District Munsif cum Judicial Magistrate No.I, Srivilliputhur in I.A.No.1 of 2023 in O.S.No.58 of 2022.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : G.Manokaran,
Party-in-person.

**ORDER**

Heard the learned counsel appearing for the revision petitioner and the respondent in person.

2. This Civil revision petition is directed against the impugned order whereby an Advocate Commissioner has been appointed by the Court below at the instance of the plaintiff. The learned counsel for the revision petitioner submits that the suit issue had already been decided in the previous round of litigation.

3. My attention is drawn to the judgment and decree dated 28.02.2006 in O.S.No.168 of 2002 on the file of the Additional District Munsif, Srivilliputhur. The suit was decreed in favour of the revision petitioner. Questioning the same, Manokaran filed A.S.No.34 of 2006 on the file of the Sub Court, Srivilliputhur. The appeal was dismissed. Challenging the same, Manokaran filed S.A.(MD)No.637 of 2010 and that it was dismissed by this Court on 04.03.2022. The learned counsel for the revision petitioner would contend that suppressing the aforesaid



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developments, the present suit has been filed. If that be so, the remedy open to the petitioner is to seek rejection of plaint. The petitioner's counsel would respond by contending that he had already filed I.A.No.3 of 2023 to decide the issue of *res judicata* as preliminary issue.

4. The learned trial Munsif (District Munsif cum Judicial Magistrate No.I, Srivilliputhur) is directed to dispose of the said I.A.No.3 of 2023 as expeditiously as possible. Till the said I.A. is decided, the impugned order shall be put on hold. In other words, the enforcement of the impugned order will abide by the outcome of the said I.A. I am giving this direction only to save judicial time. If the IA filed by the revision petitioner is allowed, the report that may be submitted by the Advocate Commissioner will become irrelevant. It is for this reason, I direct that the impugned order shall be put on hold till the preliminary issue is decided by the learned trial Munsif. This revision petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

05.08.2024

Index : yes/No

Internet: Yes/No

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G.R.SWAMINATHAN,J.

PMU

To

1. The District Munsif cum Judicial Magistrate No.I,
Srivilliputhur.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(MD).No.1546 of 2024 and
C.M.P.(MD)No.9127 of 2024

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