



C.R.P.(MD)No.2818 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2024

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2818 of 2023
and C.M.P.(MD).No.14669 of 2023

Johnson ... Petitioner/1st Respondent/Plaintiff

Vs.

1.Vanaja Mary ... Respondent/Petitioner/Defendanta

2.The Junior Engineer (Distribution),
Tamil Nadu Electricity Board,
Valliyoor, Radhapuram Taluk.

3.The State of Tamil Nadu
through District Collector,
Tirunelveli, Kokkirakulam,
Tirunelveli – 9. ... Respondents/Respondents 2 & 3/
Defendants 2 & 3

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.7 of 2022 in O.S.No.51 of 2020 dated 19.09.2023 on the file of the Principal District Munsif Court, Valliyoor.



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For Petitioner : Mr.S.Sivakumar

For Respondents : Ms.P.Jessi Jeeva Priya for R1

Mr.A.Sivanu Pandian for R3
Government Advocate (Civil)

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ORDER

This civil revision petition has been filed against the order passed in I.A.No.7 of 2022 in O.S.No.51 of 2020 dated 19.09.2023 on the file of the Principal District Munsif Court, Valliyoor.

2.Suit in O.S.No.52 of 2020 was filed by this petitioner seeking the relief of permanent injunction and for costs. Written statement was also filed by the first defendant, who is the first respondent herein. During the pendency of the suit proceedings a petition was filed seeking appointment of Commissioner to note down the physical features that was allowed and Commissioner filed his report. After perusing the Commissioner Report, I.A.No.7 of 2022 was filed by the first defendant namely Vanaja Mary, seeking permission of the trial Court to file Additional Written Statement stating that in the Commissioner Report, the Commissioner has not mentioned the physical features of the



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property. To explain those material facts, the first defendant sought permission of the trial Court to file additional written statement.

3.That was objected by this petitioner stating that only at the request made by the first defendant Commissioner was appointed. He has also mentioned the physical features. Apart from that he has also indicated the disputed portion. To over come the facts mentioned by the Commissioner, this petition is filed.

4.After hearing both sides to render fair decision, between the parties over the issue, the trial Court thought it fit to permit the first defendant to file additional written statement. Accordingly, it was allowed. Aggrieved over the same this revision has been preferred by the plaintiff.

5.Heard both sides.

6.The trial has not commenced till date. Before commencing of the trial process, the impugned petition was taken up by the first



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defendant. It is a clear finding by the trial Court to the effect that for the just decision of the issue, permission was granted to the first defendant to file the additional written statement. I find absolutely no illegality or irregularity in the order passed by the trial Court.

7.The learned counsel for the revision petitioner draw the attention of this Court to the averments made in the additional written statement in para No.7. It has been stated as follows:

“7)It is submitted that the rough plan of the Advocate/Commissioner and Surveyor plan are not correct one and it was drawn on their own whim and fancies.”

8.In stead of filing objection to the Commissioner's Report, directly additional written statement has been filed disputing the Commissioner's Report, which is not permissible. The learned counsel for the first respondent would submit that she is ready to delete the para Nos.1 and 7 in the additional written statement, by way of filing proper petition. In view of the above said undertaking given by the first respondent's counsel herein, the revision is partly allowed and this Court



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suo motu deleted the paragraphs No.1 and 7 from the additional written statement filed by the first defendant. Necessary corrections may be carried out by the first respondent herein before the trial Court and proceed in accordance with law.

9.Considering the oldness of the matter there shall be a direction to the learned Principal District Munsif, Valliyoor, to dispose of the suit as early as possible.

10.With the above said directions, this civil revision petition stands partly allowed.

08.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

- 1.The Principal District Munsif, Valliyoor.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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