

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/07/2003

CORAM

THE HONOURABLE MR.JUSTICE M. CHOCKALINGAM

C.R.P.(PD) NO.1451 OF 2003

AND

C.M.P.NO.10270 OF 2003

Mrs. Eswari Petitioner

-Vs-

Co-owners

rep. by Mr.Natchimuthu Respondent

This civil revision petition is preferred under Section 115 of C.P.
C. against the fair order and executable order passed by the learned
Additional District Munsif, Karur in I.A.No.721 of 2002 in O.S.No.788 of 2002
dated 3.1.2003.

!For Petitioner : Mr.V.Karthikeyan
for Mr.V.Perumal

^For Respondent : ---

:ORDER

Heard the learned counsel appearing for the revision petitioner. This Court is of the considered view that no notice to the respondent's side is necessary and in order to avoid the avoidable delay, the Court can give disposal to the C.R.P. with the available materials before this Court.
2. Admittedly, two suits are pending on the file of the learned Additional District Munsif, Karur, one is O.S.No.788 of 2002, wherein the revision petitioner as plaintiff has sought for declaration and permanent injunction, while the respondent herein has filed a suit in O. S.No.600 of 2002, wherein he sought for permanent injunction. It is admitted by the revision petitioner that the suit properties involved in both the suits are same; that the revision petitioner is disputing with regard to a particular part of the property and that both the suits are pending. It could be seen from the order of the court below that originally an application was filed in O.S.No.600 of 2002 for the appointment of an Advocate Commissioner.

Accordingly, the Commissioner was appointed and he inspected the suit property in the presence of both the parties and he filed his report. The petitioner herein has also filed her objections thereon. At this stage, the instant application has been filed by the revision petitioner herein for the appointment of another Advocate Commissioner to inspect the very same property. The lower court has rightly pointed out that if another Advocate Commissioner is appointed, it would be nothing but causing confusion and it would not help to the Court to decide the issue in question.

3. Under the stated circumstances, this Court is unable to see any merit in the civil revision petition. This Court is of the view that a direction would be suffice to the lower court to give an opportunity to the petitioner herein to cross examine the Advocate Commissiner if examined in that regard at the time of joint trial of both the suits. Accordingly, the lower court is directed to give an opportunity to the petitioner herein to cross examine the Commissioner if examined as witness and the lower court during trial if it feels necessary, can reissue the commission warrant to the same Commissioner to inspect the suit property and file additional report. With the above observation, this civil revision petition is closed. No costs. Consequently, connected CMP is also closed.

Index : Yes

Internet : Yes

vvk

To

The Additional District Munsif,
Karur

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