

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1592 of 2017
and CMP.No.7514 of 2017

Meenakshi

.. Petitioner

Vs.

1.Muthu
2.Kanniyappan
3.Kumar
4.Selvi
5.Vasuki

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order passed in I.A.No.180 of 2016 in O.S.No.81 of 2016 dated 16.2.2017 passed by the Principal District Munsif Court, Thiruvannamalai.

For Petitioner : Mr.B.Jawahar

ORDER

This Civil Revision Petition has been filed to set aside the fair and final order passed in I.A.No.180 of 2016 in O.S.No.81 of 2016 dated 16.2.2017 passed by the Principal District Munsif Court, Thiruvannamalai.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner/plaintiff filed the suit for permanent injunction restraining the defendants/respondents, their men, agents , servants etc., from ever interfering with the plaintiff's peaceful possession and enjoyment of the suit properties in O.S.No.81 of 2016 on the file of the Principal District Munsif Court, Tiruvannamalai. According to the petitioner/plaintiff, the respondents/defendants are trying to encroach and interfere with the possession and enjoyment of the property in respect of the suit property. Pending suit, the petitioner/plaintiff filed an application in I.A.No.180 of 2016 for appointment of Advocate Commissioner to inspect the suit properties and adjacent properties with the help of a qualified Surveyor and to submit a report with a plan. The respondents/defendants remained absent and was set exparte in I.A.No.180 of 2016 filed by the petitioner/plaintiff.

3. The learned Judge, considering the fact that the petitioner/plaintiff is seeking the relief of permanent injunction, dismissed the application in I.A.No.180 of 2016 holding that the Advocate Commissioner can be appointed only when there is any

discrepancy in the description of the property. Against the order of dismissal dated 16.02.2017 in I.A.No.180 of 2016, the petitioner has filed the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioner and perused the materials placed on record.

5. The contention of the petitioner/plaintiff is that the reasons given by the learned trial Judge for dismissing the application in I.A.No.180 of 2016 are not correct and has no force.

6. Admittedly, the petitioner has filed the suit for permanent injunction restraining the respondents from respondents/defendants their men, agents, servants etc., from interfering with the petitioner's peaceful possession and enjoyment of the suit properties. It is for the petitioner to prove his possession to succeed in the suit seeking relief for permanent injunction. Under the said circumstances, the learned Principal District Munsif Judge, Thiruvannamalai, considering the fact that the reasons assigned by the petitioner for appointing an Advocate Commisioner in the present case, are not valid, has dismissed

I.A.No.180 of 2016 by giving cogent and valid reasons. There is no infirmity or illegality in the order passed by the trial Court warranting interference by this Court.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2017

Speaking order / Non-speaking order
Index : Yes

ds

To:
The Principal District Munsif Court,
Thiruvannamalai.

V.M.VELUMANI, J.

ds

C.R.P.(PD)No.1592 of 2017

28.04.2017

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