

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3590 of 2015

and

M.P.No.1 of 2015

1.Manicka Goundar

2.Sekar

3.Durai Palani

4.Shanmugam

5.Vairamuthu ... Respondents 1 to 5/Defendants 1 to 5

Vs.

Madesh

... Petitioner/Plaintiff

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.08.2015 made in I.A.No.640 of 2015 in O.S.No.175 of 2015 on the file of the District Munsif Court, Omalur.

For Petitioner : Mr.P.Mani

O R D E R

The revision petitioners are the defendants in O.S.No.175 of 2015 on the file of the District Munsif Court, Omalur. The respondent herein is the plaintiff therein.

2. The respondent/plaintiff filed a suit in O.S.No.175 of 2015 seeking for permanent injunction restraining the revision petitioners/defendants from in any manner disturbing the usage of the plaintiff in the 'B' schedule cart track-cum-pathway, either by obstructing it or by obliterating it or by any other means.

3. According to the plaintiff, there is 15 feet width cart track running through Survey Nos.199/1 and 194/2 to a length of 1000 feet, which is in enjoyment of the plaintiff from time immemorial for reaching the suit A schedule property.

4. Therefore, the respondent/plaintiff filed an application in I.A.No.640 of 2015 in O.S.No.175 of 2015 for appointment of Advocate Commissioner to inspect the suit properties and to note down the existing physical features, the existence of the cart track and to file a detailed report and plan.

5. The said application in I.A.No.640 of 2015 in O.S.No.175 of 2015 was allowed by the Trial Court on 10.08.2015 and the present Civil Revision Petition is preferred against the aforesaid order.

6. I have heard the learned counsel for the petitioner.

7. Considering the facts and circumstances of the case, I do not find infirmity in the order of the Trial Court appointing an Advocate Commissioner to note down the physical features and the existence of the cart track. Hence, I am not inclined to interfere with the order of the Trial Court. However, the revision petitioners can very well file their objection to the report of the Advocate Commissioner, if the Advocate Commissioner committed any error in measuring the cart track contra to the warrant issued to him.

8. In fine, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

pgp

To
The District Munsif Court,
Omalur.

1 cc to Mr.P.Mani , Advocate Sr.No.48064

C.R.P.No.3590 of 2015

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