

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN

C.R.P.(PD).No.1122 of 2011
and M.P.No.1 of 2011 and 1 of 2012

Ricky Raj Johnston

... Petitioner

Vs.

1.K.Ramachandran

2.Devigi Ramachandran

3.A.L.Sundaram

4.Nigiri Adivasi Welfare Association by its
Secretary C.K.Raju

5.C.V.Viswanathan

6.C.Chandrasekaran

7.C.Malathy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 12.01.2011 made in I.A.No.151 of 2007 in O.S.No.35 of 2007 on the file of the Subordinate Judge, Nilgiris at Udthagamandalam.

For Petitioner : Mr.S.Kingston Jerold

For Respondents : Mr.V.K.Vijayaraghavan (R7)

No appearance - R1 to R4

Given up - R5 & R6

ORDER

This Civil Revision Petition is directed against the order dated 12.01.2011 made in I.A.No.151 of 2007 in O.S.No.35 of 2007 whereby and

whereunder the learned Subordinate Judge, Nilgiris at Udthagamandalam was pleased to dismiss the application filed by the petitioner for appointment of Advocate Commissioner.

2.The petitioner filed a suit for injunction on the basis of a Sale Deed executed in his favour with respect to an undivided extent.

3.The petitioner along with the suit, filed an application in I.A.No.151 of 2007, for appointment of Advocate Commissioner to inspect the suit property and prepare a plan with due demarcation. The application was opposed by the respondents.

4.The learned trial Judge by way of detailed order dismissed the application.

5.Heard Mr.S.Kingston Jerold, the learned counsel for the petitioner and Mr.V.K.Vijayaraghavan, the learned counsel for 7th respondent.

6.There is no dispute that the petitioner purchased 5 cents of land in Survey No.1406/1 of Kotagiri Town, out of the total extent of 90 cents. It was only in respect of the said property, the petitioner filed the suit for injunction. There is no question of appointing an Advocate Commissioner to

measure the property to fix the boundary and prepare a plan, in view of the fact that the purchase itself by the petitioner relates to an undivided extent.

7.The petitioner, in a suit for injunction, should demonstrate that he is in possession of a particular extent of property. There is no question of seeking appointment of Advocate Commissioner for the purpose of proving the actual extent in the possession of the petitioner and to report about the boundary. The learned trial Judge was therefore perfectly correct in dismissing the application. There is no error or illegality in the order passed by the learned trial Judge warranting interference by this court by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

8.In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No
Internet : Yes/No
va

21.08.2015

K.K. SASIDHARAN,J.

To

The Subordinate Judge,
Nilgiris at Udhagamandalam.

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