

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.2078 of 2015  
and M.P.No.1 of 2015

Kannan

... Petitioner

Vs.

1.Chakravarthi Reddiar  
2.Lalitha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 18.11.2014 in I.A.No.425 of 2014 in O.S.No.527 of 2008 on the file of Additional District Munsif, Tindivanam.

For Petitioner : Mr.N.Suresh

**ORDER**

Challenging the fair and final order passed in I.A.No.425 of 2014 in O.S.No.527 of 2008 on the file of the Additional District Munsif, Tindivanam, the 2<sup>nd</sup> defendant has filed the above Civil Revision Petition. The plaintiffs filed the suit in O.S.No.527 of 2008 for declaration, permanent injunction and other reliefs. The said suit is being contested by the defendants on various grounds.

2. At the instance of the plaintiffs, an Advocate Commissioner was appointed in I.A.No.1179 of 2012 in O.S.No.527 of 2008 to note down the physical features. Pursuant to the warrant of commission, the Advocate Commissioner inspected the suit property and filed his report dated 08.01.2013 along with a sketch. The 2<sup>nd</sup> defendant filed his objections to the Commissioner's report. Thereafter, the 2<sup>nd</sup> defendant filed an application in I.A.No.425 of 2014 in I.A.No.1179 of 2012 to scrap the Commissioner's report and to re-issue the warrant of commission. The said application was opposed by the plaintiffs. The trial Court, after taking into consideration the case of both parties, dismissed the application.

3. On a perusal of the affidavit filed in support of the application in I.A.No.425 of 2014, it is clear that the 2<sup>nd</sup> defendant has not given any acceptable reason for scraping the report and for re-issuance of warrant of commission. In the absence of any acceptable reason, the trial Court has rejected the application filed by the 2<sup>nd</sup> defendant. It is needless to say that the trial Court should take into consideration the objections filed by the 2<sup>nd</sup> defendant at the time of deciding the suit.

4.In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed.

5.The trial Court is directed to consider the objections filed by the 2<sup>nd</sup> defendant in I.A.No.1179 of 2012 in O.S.No.527 of 2008 at the time of deciding the suit and dispose of the suit, on merits and in accordance with law, without being influenced by the observation made in I.A.No.425 of 2014 in O.S.No.527 of 2008, within four months from the date of receipt of a copy of this order.

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

Index : No  
Internet : Yes  
va

**08.06.2015**

To

The Additional District Munsif,  
Tindivanam.

**M.DURAIWAMY,J.**  
va

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