

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

C.R.P.(PD).No.2471 of 2015
and M.P.No.1 of 2015

Mr.R.Varadhan

... Petitioner

Vs.

1.Mrs.Mary

2.Mr.Jacob

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 09.02.2015 made in I.A.No.113 of 2013 in O.S.No.28 of 2013 on the file of the District Munsif cum Judicial Magistrate, Uthiramerur.

For Petitioner : Mr.Kumar

ORDER

Challenging the fair and decreetal order passed in I.A.No.113 of 2013 in O.S.No.28 of 2013 on the file of the District Munsif cum Judicial Magistrate, Uthiramerur, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.28 of 2013 for recovery of possession. The defendants filed their written statement and are contesting the suit. The plaintiff filed an application in I.A.No.113 of 2013 seeking for appointment of an Advocate Commissioner to note down the physical features of the suit properties with the assistance of the Taluk Surveyor of Uthiramerur, particularly, the area of the encroached portions of 'B' and 'D' Schedule of properties.

3.It is settled position that a Commissioner cannot give a finding with regard to the possession of the property. In the prayer sought for in the application, the plaintiff sought to note down the physical features, particularly, the area of the encroached portions of the 'B' and 'D' Schedule of properties. The plaintiff has to establish his case only by oral and documentary evidences. He cannot collect evidence through the Advocate Commissioner. When the Advocate Commissioner cannot give finding with regard to the possession of the property and relating to the alleged encroached portion of the defendants, the present application was rightly dismissed by the trial Court.

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. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

01.07.2015

To

The District Munsif cum Judicial Magistrate,
Uthiramerur.

M.DURAIWAMY,J.
va

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