

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3141 of 2015

&

M.P.No.1 of 2015

1.Mr.D.Daniel

2.Dr. (Mrs.) Mekala Daniel

... Petitioners/Petitioners/Defendants

Vs.

1.Dr.T.Suresh

2.T.Arun Kumar

R1 and R2 rep by their
General Power of Attorney Agent
Dr.T.Veeraraghavan

... Respondents/Respondents/Plaintiffs

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 08.04.2015 made in I.A.No.1770 of 2014 in O.S.No.322 of 2008 on the file of the Additional District Munsif Court, Tirupattur.

For Petitioners : Mr.S.William

O R D E R

The revision petitioners are the defendants in O.S.No.322 of 2008 on the file of the District Munsif Court, Tirupattur. The respondents herein are the plaintiffs in the said suit.

2. The revision petitioners had filed the suit in O.S.No.36 of 2008 on the file of the District Munsif Court, Tirupattur wherein the respondents herein and two others are the defendants.

3. It is stated that both the suits in O.S.No.322 of 2008 and O.S.No.36 of 2008 are tried jointly.

4. At the instance of the plaintiffs in O.S.No.322 of 2008, an Advocate Commissioner was appointed in I.A.No.730 of 2008 and he had filed a report. The revision petitioners had also filed their objections.

5. During the course of trial, the revision petitioners found that the plan along with the sale deed was not referred to by the Advocate Commissioner in his report and hence, they filed an application in I.A.No.283 of 2014 in I.A.No.730 of 2008 to re-issue the Commissioner warrant to inspect the suit property along with plan annexed to the sale deed dated 29.12.1986. Thereafter, the Advocate Commissioner submitted his report. This was subsequent to the application made by the revision petitioners.

6. While so, an application in I.A.No.1770 of 2014 in O.S.No.322 of 2008 was filed by the revision petitioners to set aside the report of the Advocate Commissioner which was already filed in I.A.No.730 of 2008 and to appoint a fresh commissioner to inspect the physical features of the scheduled property and measure the same with the help of a surveyor and submit a report with the plan.

7. Ultimately, the Trial Court passed an order dated 08.04.2015 in I.A.No.1770 of 2014 in O.S.No.322 of 2008 by appointing the same Advocate Commissioner again and to submit another report along with plan, after taking the assistance of the Village Administrative Officer and the Surveyor.

8. The present Civil Revision petition is preferred against the aforesaid order.

9. At the time of hearing, the learned counsel for the petitioner would submit that a direction can be issued to the Advocate Commissioner to take into account the plan annexed with the sale deed filed by the plaintiff in O.S.No.322 of 2008 as well as the plan submitted by the revision petitioners, while submitting the report to the Court, after taking the assistance of VAO and the surveyor.

10. In view of the narrow prayer made by the learned counsel for the revision petitioners during the hearing, the Advocate Commissioner is directed to take into account the plan annexed with the sale deed filed by the plaintiff in O.S.No.322 of 2008 as well as the plan submitted by the revision petitioners, while submitting the report to the Court, after taking the assistance of VAO and the surveyor.

11. The Civil Revision Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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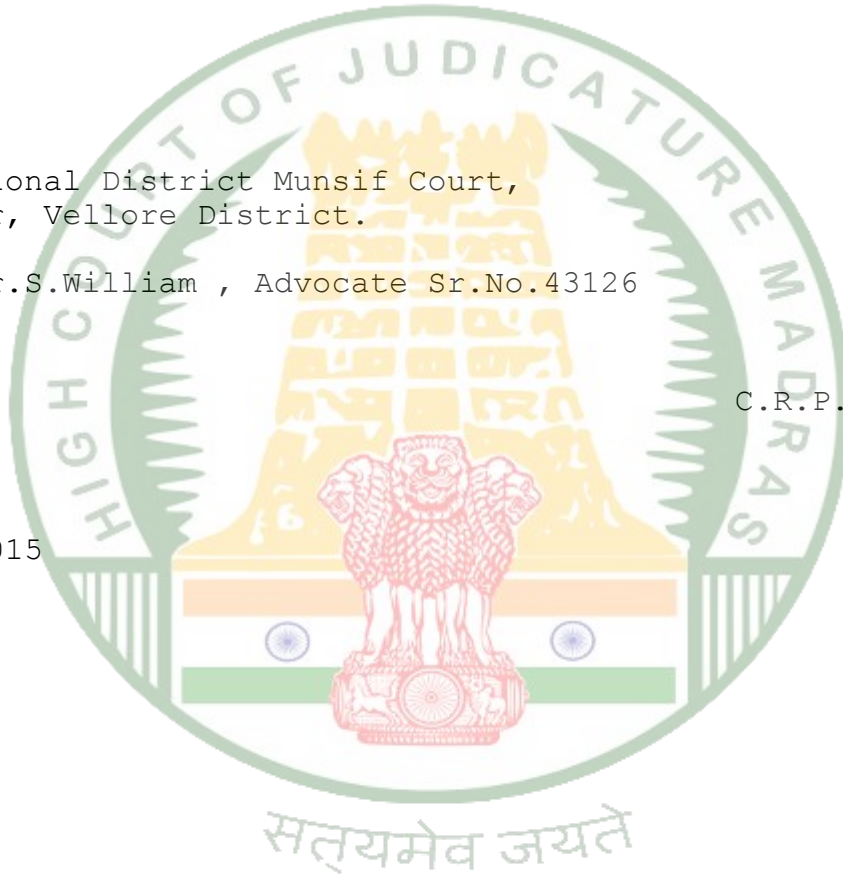
To

The Additional District Munsif Court,
Tirupattur, Vellore District.

1 cc to Mr.S.William , Advocate Sr.No.43126

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