

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.(PD)No.3180 of 2015 &

M.P.No.1 of 2015

1.Mariyappan
2.Latha

... Petitioners

v.

1.Pavunuammal
2.Mannu
3.Sampathraj
4.Vijiyaa
5.Sumathi
6.Mahadeval

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 3.12.2014 made in I.A.852 of 2013 in O.S.No.190 of 2013 on the file of Principal District Munsif cum Judicial Magistrate Court, Chengam.

For Petitioner : Mr.S.Vediappan

ORDER

The revision petitioners are the 6th and 7th defendants in O.S.No.190 of 2013 on the file of Principal District Munsif cum Judicial Magistrate Court, Chengam. The 6th respondent herein is the plaintiff. Totally, there are 7 defendants in the suit.

2. The plaintiff filed the suit in O.S.No.190 of 2013 for the following reliefs.

(a) for declaration to declare the plaintiffs' title over the suit property; ; and

(b) permanent injunction restraining the defendants from interfering the peaceful possession and enjoyment of the suit property.

3. According to the plaintiff, the suit schedule property was purchased by him by way of sale deed 18.01.2012. The sale deed also was produced along with the plaint.

4. The written statement was filed by the defendants 6 and 7 wherein, they have stated that the sale deed dated 18.01.2012, relied upon by the plaintiff, does not convey any title to the plaintiff. The defendants relied on various sale deeds.

5. While so, the plaintiff filed an application in I.A.No.852 of 2013 in O.S.No.190 of 2013 stating that the defendants are disputing the boundary line in between the suit property and the defendants property situated adjacent to the property of the plaintiff. Hence, a request was made for appointment of an Advocate Commissioner to measure the suit property with the help of a qualified Surveyor.

6. By order dated 03.12.2014, the Trial Court, allowed the application in I.A.No.852 of 2013 in O.S.No.190 of 2013 and appointed an Advocate Commissioner as prayed for.

7. The learned counsel for the petitioner has submitter that the revision petitioner has no objection for appointment of the Advocate Commissioner for measuring the suit schedule property. However, the learned counsel submitted that the learned Principal District Munsif cum Judicial Magistrate is not correct in directing the Commissioner to verify the parent deeds of both the parties and to locate the suit property with the help of the qualified Surveyor and to file his report and plan.

8. I have heard the submissions made by the learned counsel on either side.

9. The purpose of appointing an Advocate Commissioner is to ascertain the boundary line of the suit schedule property. Therefore, it is sufficient if the sale deed executed in favour of the plaintiff, which is relied on by the plaintiff, is produced for measurement and identification of the boundaries. Hence, the order of the Principal District Munsif cum Judicial Magistrate Court, Chengam directing to verify both the parent deed is deleted from the order dated 03.12.2014. In all other aspects the order passed by the learned Trial Judge remained intact that the order appointing Mr.K.Selvam as Advocate Commissioner and to inspect the suit property with the help of Surveyor is not interfered with. The plaintiff has to produce the sale deed to the Commissioner for verification so as to identify the suit schedule property and to verify the boundaries.

The Civil Revision Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Rj

To

The Principal District Munsif cum
Judicial Magistrate Court,
Chengam.

D.HARIPARANTHAMAN,J.,
Rj

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