

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.86 of 2015andM.P.No.1 of 2015

Sunil Bothra

...

Petitioner

Vs.

1.Deepa @ Umamaheswari

2.G.Saraswathy

...

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decretal order dated 26.08.2014 passed by the District Munsif Court, Tambaram in I.A.No.623 of 2014 in O.S.No.117 of 2009.

For Petitioner : Mr.R.Subramanian

ORDER

This civil revision petition is directed against the order dated 26.08.2014 passed by the District Munsif Court, Tambaram, in I.A.No.623 of 2014 in O.S.No.117 of 2009.

2. The petitioner is the first defendant in O.S.No.117 of 2009. The first respondent herein filed a suit for mandatory injunction and for other reliefs. The plaintiff filed I.A.No.504 of 2009 for appointment of Advocate Commissioner to measure the suit property. That application was allowed and the commissioner, after inspection, filed his report dated 23.06.2009 along with a plan. Again, in I.A.No.964 of 2011, commissioner was appointed and he filed his

report dated 04.07.2012 along with a rough sketch. The petitioner filed his objection dated 10.07.2012 and he filed I.A.No.623 of 2014 seeking to reissue the warrant to the Advocate Commissioner with a direction to identify the "B" Schedule property with the assistance of Taluk Surveyor. The application was opposed by the Respondents. The District Munsif dismissed the application, challenging that order, the present civil revision petition is filed.

3. Mr. R.Subramanian, learned counsel for the petitioner submitted that the suit was filed for mandatory injunction and the earlier reports have filed by the Advocate Commissioner without assistance of Taluk Surveyor and therefore, the warrant has to be reissued to measure the property with the help of Taluk Surveyor. The learned counsel further submitted that the report of the Commissioner is very much necessary to decide the issue involved in this civil revision petition.

4. It is not in dispute that in I.A.No.504 of 2009 and I.A.No.964 of 2011, the Advocate Commissioners were appointed and they had already inspected and filed their reports. The petitioner has filed his objection to the Commissioner Report on 10.07.2012. After two years, this application is filed. The trial Court rightly dismissed the application.

I do not find any merit in this civil revision petition. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2015

Index : Yes/No
Internet : Yes/No
sms

To

The District Munsif Court, Tambaram

K.KALYANASUNDARAM, J.

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