



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 12.08.2015
CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P (MD) No.1678 of 2015
and
M.P (MD) No.1 of 2015

K.Arunachalam .. Petitioner/1st Respondent/1st Defendant

-vs-

1.M.Mariammal .. 1st Respondent/Petitioner/Plaintiff

2.Cumbum Municipality,
Cumbum Town,
Uthamapalayam Taluk,
Theni District,
Rep. By its Commissioner. .. 2nd Respondent/ 2nd Respondent/
2nd Defendant

PRAYER:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 08.07.2015 passed in I.A.No.395 of 2015 in O.S.No.277 of 2013 on the file of the District Munsif's Court, Uthamapalayam.

For Petitioner : Mr.R.Subramanian
For R - 1 : Mr.S.Kadarkarai

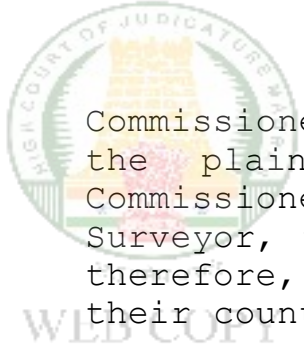
ORDER

Challenging the fair and final order passed in I.A.No.395 of 2015 in O.S.No.277 of 2013 on the file of the District Munsif Court, Uthamapalayam, the first defendant has filed the above Civil Revision Petition.

2. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the first respondent.

3. The plaintiff filed the suit in O.S.No.277 of 2013 on the file of the District Munsif Court, Uthamapalayam for mandatory injunction and permanent injunction. The defendants filed their written statement and are contesting the suit.

4. On the completion of the trial and when the suit was posted for arguments, the plaintiff took out an application in I.A.No.395 of 2015 seeking for appointment of an Advocate



Commissioner. In the affidavit filed in support of the petition, the plaintiff has stated that by appointing an Advocate Commissioner to measure the suit property with the assistance of a Surveyor, the issue involved in the suit can be narrowed down and therefore, a Commissioner can be appointed. The defendants filed their counter and opposed the petition.

5. The trial Court, taking into consideration the case of both sides, while allowing the application found that by appointing an Advocate Commissioner it would be helpful for coming to a fair conclusion in the dispute.

6. Since the trial Court is of the opinion that by appointing an Advocate Commissioner it would be in a better position to come to a fair conclusion in the matter, I am of the view that the trial Court has rightly appointed the Advocate Commissioner to measure the suit property with the help of the Surveyor. In these circumstances, I do not find any error or irregularity in the order passed by the trial Court.

7. Accordingly, the Civil Revision Petition is devoid of merits and the same is dismissed. Since the suit is pending from the year 2013 and that the suit is posted for arguments, I direct the learned District Munsif, Uthamapalayam to dispose of the suit in O.S.No.277 of 2013 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

ps

To
The Commissioner, Cumbum Municipality,
Cumbum Town, Uthamapalayam Taluk
Theni District.

+1cc Mr.S.Kadarkarai, Advocate Sr.No. 46157

JAM/MPA-DP/SAR-II/2.9.18/2P-3C

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