



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2015

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) (MD) No. 839 of 2014

and

M.P (MD) No. 1 of 2014

Thangavel

... Petitioner/Respondent/Appellant

vs.

1. Pushpavalli

2. Arukkani

... Respondents/petitioners/Respondents

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order, dated 05.11.2013 in I.A.No.73 of 2013 in A.S.No.88 of 2011 on the file of Additional Sub Court, Karur.

For Petitioner : Mr.K.Govindarajan

For Respondents: Mr.E.K.Kumaresan

J U D G M E N T

This Civil Revision Petition is directed against the order dated 05.11.2013 in I.A.No.73 of 2013 in A.S.No.88 of 2011, allowing the application seeking permission to examine the Commissioner appointed by the Court and also the Surveyor to assist the Commissioner in drawing the plan and report.

2.The learned counsel for the petitioner submitted that the application was filed by the petitioner under Order 16 Rule 14 of the Code of Civil Procedure to examine the Village Administrative Officer and the Surveyor. After hearing the arguments, the application was allowed by the Court and Advocate Commissioner filed his report with survey plan. Since there is dispute with the measurements, the petitioner claims that if necessity arises, the Advocate Commissioner or the surveyor will be examined. He can do so only when necessity warrants at the time of argument. This application is allowed at the premature stage. The order of the Sub Judge, Karur says that the Commissioner himself was appointed only at the appellate stage. Therefore, the respondents should be given an opportunity to cross-examine the commissioner and surveyor to appreciate their evidence completely. As the appointment of the Commissioner was taken out by the petitioner at the appellate stage, the objection of the revision petitioner that only when necessity warrants, the Advocate Commissioner or the surveyor has to be examined is not acceptable. The appellate Judge himself had issued the summons to the Village Administrative Officer and Commissioner. There is no justifiable reason to interfere with the order of the appellate Court.



3. In the result, the Civil Revision Petition is dismissed, confirming the order of the lower Court. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (Per. Admn)

/True copy/

Sub Assistant Registrar

am

To

The Additional Sub Judge, Karur.

+1cc to MR. E.K.KUMARASAN, ADVOCATE SR NO.2087

+1CC TO MR.K.GOVINDARAJAN, ADVOCATE SR NO.1659

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