



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2015

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.PD (MD) .No.593 of 2015

and

M.P.(MD) No.1 of 2015

S.Rajapandy

...Petitioner/Petitioner/Plaintiff

Vs.

P.Gurusamy

...Respondent/Respondent/Defendant

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed in I.A.No.230 of 2014 in O.S.NO.92 of 2014, dated 21.01.2015, on the file of the Additional District Munsif Court, Manamadurai and set aside the same.

For Petitioner : Mr.D.Saravanan

For Respondent : Mr.D.P.Sundararaj

ORDER

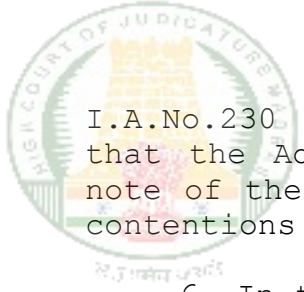
The Civil Revision Petition is directed against the order dated 21.01.2015 in I.A.No.230 of 2014 in O.S.NO.92 of 2014, on the file of learned Additional District Munsif, Manamadurai, whereby and whereunder, the application submitted by the petitioner for re-issuance of Commission was dismissed by the trial Judge.

2. The petitioner filed a civil Suit in O.S.No.92 of 2014, against the respondent before the Court below, praying for a decree of permanent injunction. In the said suit, he took out a Commission. The Advocate Commissioner submitted his report. The petitioner accepted the report without filing objections. Thereafter, the petitioner filed an application in I.A.No.230 of 2014 for appointment of Commissioner and to inspect the property afresh. The application was rejected by the trial Judge. The said order is under challenge in this Civil Revision Petition.

3. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

4. There is no dispute that initially Advocate Commissioner was appointed at the instance of the petitioner. The Advocate Commissioner submitted his report. The petitioner failed to submit his objections to the report submitted by the Advocate Commissioner. It was only as an after thought, the petitioner filed an application in I.A.No.230 of 2014 contending that the Advocate Commissioner failed to take into account certain vital aspects and as such, the property should be inspected once again. The trial Judge rightly dismissed the application.

5. In case, the petitioner was of the view that the Advocate Commissioner has not taken note of certain vital aspects, nothing prevented him from filing objections to the report. It was only at a later point of time and more particularly in the affidavit filed in



I.A.No.230 of 2014, the petitioner has come with up with an allegation that the Advocate Commissioner failed to measure the property and take note of the material features. I therefore, do not find any merit in the contentions taken by the petitioner.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (Per Admn)

/True copy/

Sub Assistant Registrar

To

The Additional District Munsif, Manamadurai.

+1cc to Mr.D.P.Sundararaj, Advocate in SR.17933

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