



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2015

CORAM :

WEB COPY

**THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN**

C.R.P.NPD (MD) .No.714 of 2015

and

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

P.Dhanalakshmi

... Petitioner/Respondent/  
Respondent/Defendant

Vs.

1.Thavamani

2.Muthuraj

... Respondents/Petitioners  
Petitioners/Plaintiffs

**Prayer :** Civil Revision Petition under Article 227 of the Constitution of India, against the fair and decretal order dated 23.02.2015 in I.A.No.1 of 2015 in I.A.No.490 of 2015 in O.S.No.154 of 2014 on the file of District Munsif Court, Periyakulam.

For Petitioner : Mr.K.Govindarajan

**ORDER**

The Civil Revision Petition is directed against the order dated 23.02.2015 in I.A.No.1 of 2015 in I.a.No.490 of 2014 in O.S.No.154 of 2014 on the file of learned District Munsif, Periyakulam, allowing the application filed by the respondent to direct the Commissioner to inspect the property once again with reference to the survey records.

2.The respondents herein filed a suit against the petitioner in O.S.No.154 of 2015 before the District Munsif, Periyakulam. The suit is one for permanent injunction. The respondents filed an application in I.a.No.490 of 2014 for appointment of an Advocate Commissioner. The said application was allowed. The Advocate Commissioner appointed by the Court inspected the property and submitted a report. Thereafter, the respondents have filed another application in I.A.No.1 of 2015, seeking direction to the Advocate Commissioner to measure the property with the help of a surveyor. The petitioner opposed the said prayer by filing counter. The learned trial Judge allowed the application. Feeling aggrieved by the said order, the petitioner is before this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard the learned counsel for the petitioner.



4. There is no dispute that initially the Advocate Commissioner appointed by the Court inspected the property. The Advocate Commissioner has not measured the property with reference to the survey records. He was not having the assistance of surveyor. It was only under such circumstances, the respondents have moved the trial Court with an application to direct the Commissioner to measure the property with the help of surveyor. The application was opposed by the petitioner only on the ground that being a suit for bare injunction, it is not necessary to conduct a detailed inspection of the property in question.

5. The petitioner has not made any objection when the earlier commission was issued. The Advocate Commissioner is not an expert. There is nothing wrong in directing the Advocate Commissioner to take the assistance of a surveyor for the purpose of measuring the property. Such being the factual position, I do not find any error or illegality in the order passed by the learned trial Judge warranting interference by exercising the revisional jurisdiction under Article 227 of the constitution of India.

6. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected M.P.(MD) No.1 of 2015 is also dismissed.

Sd/-

Assistant Registrar(A.E.,)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif, Periyakulam.

+1cc to Mr.K.Govindarajan, Advocate, in SR. No.17403.

+1cc to Mr.P.Muthu Vijaya Pandian, Advocate, in SR. No.17616.

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