

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4145 of 2015 &
M.P.No.1 of 2015

1.K.P.Uthirasamy
2.K.P.Boopathy

... Petitioners

v.

1.V.Janaki
2.Palaniammal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 13.07.2015 passed I.A.No.776 of 2014 in O.S.No.790 of 2004 on the file of V Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.M.Sriram

ORDER

Challenging the fair and final order passed in I.A.No.776 of 2014 in O.S.No.790 of 2004 on the file of V Additional District and Sessions Judge, Coimbatore, the defendants 1 and 2 have filed the above Civil Revision Petition.

2. Pursuant to the preliminary decree passed in O.S.No.790 of 2004, the plaintiffs filed an application in I.A.No.511 of 2012 for passing of final decree.

3. The Trial Court appointed an Advocate Commissioner to divide the property as per the preliminary decree passed in O.S.No.790 of 2004.

4. The Advocate Commissioner inspected the suit property and filed his report along with a plan before the Trial Court. Thereafter, the revision petitioners filed an application in I.A.No.776 of 2014 to re-issue the warrant of commission to the Advocate Commissioner and effect division of the property as per preliminary decree.

5. In the affidavit filed in support of the application, the defendants have stated that the Commissioner had inspected the property without putting them on notice and that the report filed by the Commissioner is not in consonance with the preliminary decree passed in the suit.

6. The application filed by the defendants was contested by the plaintiffs.

7. The Trial Court, taking into consideration the case of both the parties, while dismissing the application found that during the visit of the Advocate Commissioner, both the counsel and the petitioners were present in the suit property and co-operated to execute the warrant of commission. Further, the Advocate Commissioner has stated that he issued private notice to the parties before reaching the suit property and measuring the same.

8. The contentions raised by the revision petitioners were correctly answered by the Trial Court in its order dated 13.07.2015.

9. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. The learned counsel for the revision petitioners submitted that the revision petitioners have filed objections to the

Advocate Commissioner's report. It is needless to say that at the time of passing of final decree, the Trial Court shall take into consideration the objections filed by the revisions petitioners-defendants 1 and 2 and pass the final decree, in accordance with law.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

11.01.2016

Rj

To

The V Additional District and Sessions Judge,
Coimbatore.

M. DURAISWAMY,J.,

Rj

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