

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMAINAM

C.R.P.(P.D.) No.135 of 2013

and

M.P.No.1 of 2013

Ayyasamy Nadar

... Petitioner

Vs.

1.Kuppusamy Gounder

2.Neelambal

3.Velusamy Gounder

4.Mani

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 25.09.2012 passed in I.A.No.542 of 2012 in O.S.No.25 of 2011 on the file of the District Munsif Court, Kangayam, Tirupur district.

For Petitioner : Mr.V.Kamal

For Respondents : No appearance

ORDER

The present Revision Petition is filed challenging the order dated 25.09.2012 passed in I.A.No.542 of 2012 passed by the District Munsif, Kangayam, Tirupur district. It is a suit for permanent injunction filed by

the petitioner/plaintiff, in which the Trial Court appointed an Advocate Commissioner to examine the suit scheduled property. The Advocate Commissioner after examining the property submitted his report on 21.01.2011. On perusal of the Advocate Commissioner's Report, the plaintiff thought fit for filing the petition seeking amendment of relief sought for in the plaint in I.A.No.542 of 2012. More specifically, the plaintiff intended to modify the schedule of the property in the plaint.

2.The Trial Court considering the facts and circumstances of the case rejected the petition on the ground that the petition for amendment will change the character and nature of the suit. The observation made by the Trial Court is not infirm. Adding to that, this Court is of the view that no party in the suit shall be permitted to amend the plaint or other pleadings, based on the report of the Advocate Commissioner appointed by the Court. Commissioners are the officers of the Court appointed for the purpose of finding out the truth regarding the issues raised by the respective parties in the suit. Such being the status of the Commissioner appointed by the Court, the parties cannot take advantage of the Commissioner's report and use for adjudicating their case or altering the pleadings. Such being the preposition of the law, this Court cannot consider the grounds raised by the petitioner. Accordingly, the findings of the Trial Court is in order and needs no interference.

3. It is needless to state that the respective parties are at liberty to raise all the grounds and issues before the Trial Court and adjudicate the matter in an effective manner known to law. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

09.12.2016

Index : Yes
Internet : Yes
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To

The District Munsif,
Kangayam,
Tirupur district.

S.M.SUBRAMANIAM,J.

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