

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1475 of 2016

and

C.M.P.No.8101 of 2016

B.Dineshkumar

... Petitioner

vs

1.J.Supraja

2.S.Rajagopal

3.G.Yesaiya

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 15.02.2016 passed in I.A.No.751 of 2015 in O.S.No.287 of 2015 on the file of Sub Court, Poonamallee.

For Petitioner : Mr.V.Veluchamy

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ORDER

This revision challenges the order of learned Sub Judge, Poonamallee, passed in I.A.No.751 of 2015 in O.S.No.287 of 2015 on 15.02.2016.

2. First respondent/plaintiff has moved O.S.No.287 of 2015 on the file of learned Sub Judge, Poonamallee, seeking declaration of title to the suit B

schedule property and to deliver vacant possession of the same. First respondent/plaintiff moved I.A.No.751 of 2015 seeking appointment of an Advocate Commissioner towards measuring the suit properties and noting the physical features. The Court below has allowed such application. This revision is preferred against such order.

3. Learned counsel for petitioner submitted that the first respondent/plaintiff had informed of knowledge of encroachment upon her property by petitioner/first defendant on measurement thereof by a surveyor. Learned counsel contended that first respondent/plaintiff had failed to produce the survey plan before the Court below. In the circumstances, he ought not to have been permitted to have a re-survey of the property through an Advocate Commissioner. Learned counsel referred to the decision of this Court in ***M.Krishnamoorthy vs. G.Ramalingam [C.R.P.[PD] [MD] No.2106 of 2010 dated 23.07.2015]***, wherein this Court has held that where the property had already been measured by a surveyor, there is no question of appointing an Advocate Commission to measure the property once over.

This Court finds that under a common order dated 15.02.2016, the Court below has disposed of four interlocutory applications, two applications for interim injunction, one to appoint an Advocate Commissioner and one to

vacate an order of interim injunction earlier granted. Two interlocutory applications for interim injunction have been dismissed while the other two applications seeking appointment of an Advocate Commissioner and vacation of an order of interim injunction earlier granted have been allowed. In passing such order, a detailed discussion on the contentions of either side stands made and in allowing the application for appointment of Advocate Commissioner, which order is challenged herein, the Court below has expressed the view that the same would assist the Court in arriving at a clear picture and further, no prejudice would be caused to defendants by appointment of an Advocate Commissioner. An interlocutory order of the Court below would not be interfered with unless the same is found to be totally unreasonable or perverse. Such not being the case here, the Civil Revision Petition shall stand dismissed. No costs. Connected miscellaneous petition is also closed.

06.06.2016

Index : Yes / No
Internet : Yes

sri/gm

To

The Sub Judge,
Poonamallee.

C.T.SELVAM, J

sri/gm

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