

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.09.2016**

CORAM:

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

C.R.P.(P.D.) No.2263 of 2016 and
CMP.No.11731 of 2016

Mala Samanta

...Petitioner

versus

N.Gajendran

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 15.04.2016 made in I.A.No.1927 of 2015 in O.S.No.411 of 2015 on the file of the District Munsif Cum Judicial Magistrate, Sriperumbudur.

For Petitioner : Mr.K.Rajasekaran

For Respondent : Mr.M.Balamurugan

ORDER

The Trial Court appointed an Advocate Commissioner to inspect the suit schedule property pursuant to the application filed by the respondent. The order is challenged by the petitioner, who was arrayed as respondent in I.A.No.1927 of 2015 in O.S.No.411 of 2015 on the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. The suit in O.S.No.411 of 2015 was filed by the petitioner, praying for a decree of injunction. During the currency of the suit, the respondent filed an application in I.A.No.1927 of 2015 for appointment of an Advocate Commissioner to inspect the suit schedule property. The respondent made a further prayer to inspect his property and submit a report.

4. The learned Trial Judge allowed the said application notwithstanding the objection raised by the petitioner.

5. The materials available on record indicates that the application filed by the respondent was opposed by the petitioner on the ground that a Taluk Surveyor had already measured the property and fixed boundaries in the presence of the respondent herein. Therefore, there is no need for appointment of another Commissioner.

6. The learned Judge found that there is a dispute with regard to the existence of 2 1/2 feet vacant space on northern and southern side

of the property and as such, it would be in the interest of both parties to appoint an Advocate Commissioner. The learned Judge has given sufficient reasons in support of his direction for appointment of Advocate Commissioner. I am therefore of the view that the order does not call for interference.

7. The learned Judge is directed to issue memo to the Advocate Commissioner directing him to take the assistance of Taluk Surveyor while measuring the property.

8. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2016

Index : Yes/No

svki

To

The District Munsif Cum Judicial Magistrate,
Sriperumbudur.

K.K.SASIDHARAN, J.

(svki)

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