

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **9.9.2016**

CORAM:

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

C.R.P.(P.D.) No.2678 of 2016

D.Parthasarathy : Petitioner
versus

1. Thiruvalluvan
2. R.T.Thirumavalavan
3. R.T.Arunodhayan : Respondents

PRAYER: Revision filed against the order dated 1.6.2016 in I.A.No.123/
2016 in O.S.No.23/2012 on the file of the Principal District Judge,
Kanchipuram.

For petitioner : Mr.V.Manohar

For respondent : Mr.J.Sudhakaran

ORDER

The petitioner in his capacity as the plaintiff, filed an application for appointment of Advocate Commissioner to survey the suit properties and the properties of the defendants, with the assistance of a Head Surveyor. The application was dismissed by the Trial Court on the ground that

Advocate Commissioner was appointed in an earlier suit in C.S.No.603 of 2000 wherein the vendor of the petitioner was a party. Feeling aggrieved, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The background facts would indicate that the vendor of the petitioner by name Thiru. Viswanathan filed a suit in O.S.No.603 of 2000. In the said suit, Advocate Commissioner was appointed to report about the property, its measurement and physical features. The Advocate Commissioner filed his report. Thereafter, the suit was dismissed. The petitioner is the successor-in-interest of Thiru. Viswanathan. Finding recorded in the suit in O.S.No.603 of 2000 would bind the petitioner also.

4. The petitioner filed this application only after posting the matter for cross examination of D.W.1. The attempt of the petitioner appears to be to collect evidence and to get rid of the findings recorded in O.S.No.603 of 2000. There is no question of appointment of Advocate Commissioner in a suit of this nature and more particularly on account of the report filed by the Advocate Commissioner in O.S.No.603 of 2000. I am therefore of the view

that the learned Trial Judge was perfectly correct in dismissing the application.

5. In the upshot, I dismiss the revision petition. No costs.
Consequently, M.P.No.1/2009 is also dismissed.

9.9.2016

Index:Yes/no
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To
The Principal District Judge, Kanchipuram.

K.K.SASIDHARAN, J.

(tar)

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