

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.09.2016**

CORAM:

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

C.R.P.(P.D.) No.3038 of 2016 and
CMP.No.15346 of 2016

1.Rajavel
2.Devaki

...Petitioners

versus

Gurusami

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 08.10.2014 made in I.A.No.788 of 2008 (filed by the petitioners under Order XXVI Rule 9 CPC) in O.S.No.703 of 2004 on the file of learned I Additional District Munsif Court, Vridhachalam.

For Petitioners : Mr.R.Iyyappan

ORDER

The Trial Court appointed Commissioners on two occasions to inspect the suit property and file a report. The very same Advocate Commissioner was appointed by the Trial Court on both the occasions. The Advocate Commissioner submitted his report. Thereafter, the petitioners filed an application for appointment of a third Advocate

Commission on allegation that there was variation in the report submitted by the Advocate Commissioner earlier with respect to the measurement of the property in question. The application was dismissed by the learned Trial Judge. Feeling aggrieved, the petitioners are before this Court.

2. The learned counsel for the petitioners contended that very same Advocate Commissioner was appointed by the learned Judge on two occasions. The Commissioner reiterated the measurements as found in the original report without making any attempt to measure the property in the light of the documents. According to the learned counsel, the learned Trial Judge erred in dismissing the application for appointment of third Advocate Commission to inspect the property in question.

3. The Trial Court appointed Advocate Commissioner to inspect the property and submit a report along with sketch. The report was filed in 2007. The very same Commissioner was appointed once again and he filed his report in 2008. Thereafter, the petitioners filed an application in I.A.No.788 of 2008 for appointment of third Advocate Commission. There is no question of appointing Commissioners one

after another in the very same suit, without there being any justifiable reasons to scrap the reports filed earlier. Moreover, the order under challenge was passed as early as on 08.10.2014. The revision petition was filed only on 19 September 2016.

4. It is true that there is no prescribed period of limitation for invoking the jurisdiction under Article 227 of the Constitution of India. However, that would not mean that the revision petition could be filed at any point of time. The suit is of the year 2004. It is also a matter of record that only after commencement of trial, the petitioners have come up with the third application for appointment of Advocate Commissioner. This aspect was considered by the learned Trial Judge and the application was rightly dismissed. I do not find any error or illegality in the said order warranting interference by this Court.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2016

Index:Yes/No

svki

K.K.SASIDHARAN, J.

(svki)

To

The I Additional District Munsif Court, Vridhachalam.

C.R.P.(P.D.) No.3038 of 2016

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