

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD)No. 3110 of 2016

And

C.M.P.No. 15813 of 2016

Vijayakumar @ Kumar

... Revision Petitioner/Petitioner/Plaintiff

Versus

1. Arumugam
2. Gopalamudram Panchayat
Rep. by its President
Goplamudram
Sirkali Taluk & Munsif
Nagapattinam District

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and decreetal order dated 22.07.2016 made in I.A.No. 711 of 2014 in O.S.No. 131 of 2007 on the file of the District Munsif Court, Sirkali.

For Petitioner : Mr.M.V.Venkateshan

O R D E R

The plaintiff in O.S.No. 131 of 2007 on the file of the learned District Munsif Court, Sirkali, is the petitioner in this Civil Revision Petition.

2. The petitioner filed a suit for injunction against the respondents. The case pleaded by the petitioner was disputed by the respondents. The parties thereafter went to trial. The petitioner, after posting the matter for arguments, filed an application in I.A.No.711 of 2014 to reopen the suit for the purpose of appointment of an Advocate Commissioner to inspect the property. The application was dismissed by the trial Court. The said order is under challenge in this Civil Revision Petition.

3. The learned counsel for the petitioner contended that after the initiation of the suit, the respondents trespassed into the property and reduced a portion into their possession. It was only to note down the said subsequent events, the petitioner filed the application to reopen the matter.

4. It is not the case of the petitioner that the alleged trespass was not

within his knowledge earlier. According to the petitioner, it was only after the initiation of the suit, the act of trespass was made by the respondents. Therefore, nothing prevented the petitioner from filing a petition for appointment of commissioner before the closure of evidence. The application before the learned Judge was filed during the fag end of the proceedings. The learned Judge was therefore perfectly correct in dismissing the application.

5. The Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

03.10.2016

vsg

To

District Munsif Court, Sirkali.

K.K.SASIDHARAN, J.

vsg

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