



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.353 of 2016 (PD)
and
C.M.P. (MD) No.1484 of 2016

Veerapandi

.. Petitioner

Vs.

1.Kottiappan
2.Uchimaakali
3.P.Sivanandiappan @ Andi
4.S.Petchiammal @ Pappa

.. Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 31.03.2015, made in I.A.No.747 of 2014 in I.A.No.289 of 2013 in O.S.No.156 of 2013 on the file of the Ist Additional District Munsif, Tirunelveli and allow this Civil Revision Petition.

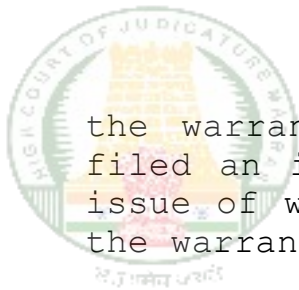
For Petitioner : Mr.A.Jayaramachandran

ORDER

This memorandum of Civil Revision Petition has been directed against the fair and decretal order dated 13.03.2015, made in interlocutory application in I.A.No.747 of 2014 in I.A.No.289 of 2013 in O.S.No.156 of 2013 on the file of the learned I-Additional District Munsif, Tirunelveli.

2. The petitioner has filed a suit in O.S.No.156 of 2013, praying for declaration and permanent injunction. The petitioner herein is the plaintiff and the respondents are the defendants in the said Suit. The petitioner filed an interlocutory application in I.A.No.289 of 2013, for appointment of an Advocate Commissioner to inspect, measure and note down the physical features of the suit property with the help of the surveyor. That application is ordered and the Advocate Commissioner was appointed. The Advocate Commissioner inspected the property and filed his report measuring the same with the help of surveyor.

According to the petitioner, the Advocate Commissioner, after measuring the property, did not mention the actual measurement taken by him in the report and gave the report against



the warrant issued by the Court. Therefore, the petitioner has filed an interlocutory application in I.A.No.747 of 2014, to re-issue of warrant to measure the suit property, in accordance with the warrant issued by the trial court.

4. The respondent has filed his counter affidavit and resisted the same and submitted that the Advocate Commissioner inspected the suit property with the help of surveyor and filed his report. The petitioner also filed his objection to the report. He filed an application to re-issue of warrant as the report of the Advocate Commissioner is not in favour of the petitioner. The learned Judge has considered all the materials and facts and dismissed the application.

5. Having been aggrieved by the said order, the petitioner is before this Court with this Civil Revision Petition.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. The learned counsel for the petitioner submitted that the advocate commissioner did not execute the warrant properly. After measuring the property, the advocate commissioner has filed the report after four months without correct measurement. The boundaries mentioned by the Advocate Commissioner is not correct. Therefore, he prayed for allowing the Civil Revision Petition by setting aside the order dated 31.03.2015, made in I.A.No.747 of 2014.

8. Perusal of the records would go to show that the Advocate Commissioner inspected the property and measured the same with the help of the surveyor and filed his report on 04.04.2014 and given the boundaries as found in the revenue records. The petitioner has filed the application in I.A.No.747 of 2014 to re-issue the warrant, as he is not satisfied with the report of the Advocate Commissioner. The learned Judge considered all the facts and circumstances and stated that the issues will not be considered only based on the report of the Advocate Commissioner.

9. In the above circumstances, this Court finds that the learned Judge has considered all the materials and facts and dismissed the application and passed the order in proper perspective by giving cogent and valid reasons and there is no irregularity or infirmity in the said order, warranting interference by this Court. Hence, this Civil Revision Petition is liable to be dismissed.



10. Accordingly, this Civil Revision Petition is dismissed.
No Costs. Consequently, connected Miscellaneous Petition is closed.

WLB COPY

Sd/-

Assistant Registrar (C.O I/C)

/True Copy/

Sub-Assistant Registrar

To

The Ist Additional District Munsif, Tirunelveli.

PJL

RL/2C/JGB/DP/8/3/2016

C.R.P (MD) No.353 of 2016 (PD)
and
C.M.P. (MD) No.1484 of 2016

17.02.2016