

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 02.03.2016****CORAM:****THE HONOURABLE MS.JUSTICE V.M.VELUMANI**
C.R.P(MD)No.473 of 2016(PD)

WEB COPY

Gurusamy

.. Petitioner/Petitioner/defendant

Vs.

Ramasamy

.. Respondent/Respondent/plaintiff

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 08.10.2015, made in I.A.No.395 of 2015 in I.A.No.420 of 2013 in O.S.No.146 of 2010, on the file of the District Munsif Court, Virudhunagar.

For Petitioner : Mr.S.Vellaichamy

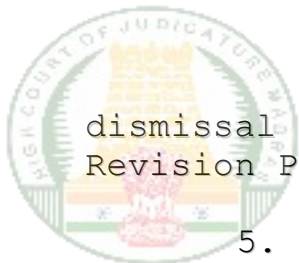
O R D E R

This Civil Revision Petition is filed against the fair and decreetal order 08.10.2015, made in I.A.No.395 of 2015 in I.A.No.420 of 2013 in O.S.No.146 of 2010, on the file of the District Munsif Court, Virudhunagar.

2. The petitioner is the defendant in the Suit. The respondent filed a Suit in O.S.No.146 of 2010 for declaration, recovery of possession and mandatory injunction. The respondent filed an application in I.A.No.420 of 2013 for appointment of an Advocate Commissioner. The Advocate Commissioner was appointed and he inspected the property and he filed the report.

3. According to the petitioner, the Advocate Commissioner did not properly measure the property and he has not filed report, mentioning correct particulars and measurement. Therefore the petitioner filed I.A.No.395 of 2015 to set aside the Advocate Commissioner's report filed in I.A.No.420 of 2013 and for appointment of fresh Advocate Commissioner to inspect the petition schedule property with a direction to measure the buildings of the respective parties and note their physical features.

4. The respondent filed counter affidavit and stated that the Advocate Commissioner inspected the property and measured the property with the help of the Surveyor and VAO, based on the Government records. The petitioner did not produce any records at the time of inspection. The learned Judge considering all the materials on record, dismissed the application. Against the



dismissal order, the petitioner has come up with the present Civil Revision Petition.

5. The learned counsel for the petitioner submitted that the learned Judge erred in dismissing the application filed under Order 26 Rule 10 without assigning any valid reasons. The Advocate Commissioner did not reveal the physical features of the property and therefore it has to be scratched. The learned Judge failed to see that the Advocate Commissioner has not correctly submitted the real lie of the petitioner's property. The petitioner is not admitting the Government document and classification of the property in the revenue records. The learned Judge erred in holding that the petitioner can cross-examine the Government officials with regard to the Government documents. The Advocate Commissioner ought not have relied on the Government documents and prayed for allowing this Civil Revision Petition.

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

7. From the records it is seen that the Advocate Commissioner inspected the property in question along with the help of the surveyor and VAO and measured the property in question, based on the Government records and filed his report. The petitioner has not made any allegations against the Advocate Commissioner. The petitioner has filed objection to the Advocate Commissioner's report. The grievance of the petitioner is that the Advocate Commissioner ought not have relied on the Government records, when the petitioner is disputing the same. The petitioner filed an application to set aside/scrap the report of the Advocate Commissioner. The petitioner has right to cross-examine the Surveyor and VAO, who were assisted the Advocate Commissioner at the time of measuring the property. The learned Judge considering all the aspects dismissed the application by giving cogent and valid reasons. Hence, there is no irregularity or illegality in the said order, warranting interference of this Court. Therefore, the Civil Revision Petition is liable to be dismissed.

8. Accordingly, this Civil Revision Petition is dismissed.
No Costs.

Sd/
Assistant Registrar (C O Dept)

/True Copy/

Sub Assistant Registrar

To
The District Munsif, Virudhunagar.
CN/JGB-DP/23.03.2016/2P-2C