

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.1118 of 2014

B.Thilagavathi

.. Petitioner

Vs.

1. R.Baskaran

2. N.Ramalingam

3. Tamiselvi

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 24.09.2013 made in I.A.No.679 of 2013 in O.S.No.87 of 2010 on the file of the II Additional Sub Court, Erode.

For petitioner : Mr.M.Guruprasad

For Respondent-1 : Mr.P.Muthukumarasamy

For Respondents 2 & 3 : Mr.R.Karthikeyan

ORDER

The revision is filed by the plaintiff challenging dismissal of an application for appointing an Advocate Commissioner to note down the physical features of Item No.7 of the suit property.

2. The suit is filed for partition. Pending suit, Item No.7 of the suit property was sold and the purchaser is trying to pull out the old structure and put up a new construction. Therefore, to note down the physical features, the application was filed.

3. First of all, the sale itself is hit by Section 52 of the Transfer of Property Act 1982 as it is made pending *lis*. The case of the plaintiff herself is that only an attempt to put up a new structure, but no main structure has been put up so far.

4. As the sale itself has been effected after an order of injunction was granted, a Contempt Petition was taken out and which is also now pending.

5. In the above circumstances, appointment of Commissioner to note down the physical features of Item No.7 is not necessary. Even if the petitioner has got any apprehension that the purchaser of the 7th item may claim any equity, the same may be agitated in the final decree

proceedings. Hence, there is no reason to interfere with the order passed by the learned trial Judge.

6. This Civil Revision Petition is dismissed accordingly. No costs.

10.01.2017

srn

To

The II Additional Sub Court,
Erode.

PUSHPA SATHYANARAYANA.J

srn

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