

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2231 of 2014 &

M.P.No.1 of 2014

M.Nagarajan

... Petitioner

v.

1.M.Ganesan

2.G.Ramesh

3.G.Karthikeyan

4.Janaki

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair order and Decreetal order dated 02.12.2013 passed in I.A. No.1044 of 2013 in O.S.No.40 of 2009 on the file of District Munsif Court, Attur.

For Petitioner : Mr.V.Subramani

ORDER

Challenging the fair and final order passed in I.A. No.1044 of 2013 in O.S. No.40 of 2010 on the file of District Munsif Court, Attur, the

plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.40 of 2009 for declaration and permanent injunction. The defendants filed their written statement and are contesting the suit.

3. Earlier, the plaintiff took out an application in I.A.No.159 of 2009 seeking for appointment of an Advocate Commissioner and the Commissioner was also appointed in the said application. The Commissioner appointed by the Trial Court had visited the suit property and filed his report. Thereafter, in the year 2013, the plaintiff took out another application seeking for appointment of Advocate Commissioner to inspect the suit properties with the assistance of a qualified surveyor.

4. It is settled position that the earlier Commissioner's report is available before the Trial Court. Without scrapping the report, second Commissioner cannot be appointed.

5. Admittedly, petitioner/plaintiff has filed an application seeking for appointment of Advocate Commissioner for the second time without scrapping the earlier Commissioner's report.

6. Taking into consideration, all these aspects, the Trial Court has rightly dismissed the application.

7. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit is pending from 2009, I direct the District Munsif, Attur to dispose of the suit in O.S.No.1044/2013, on merits in accordance with law within a period of four months from the date of receipt of copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2017

Index : Yes/No

uma/Rj

To

The District Munsif Court,
Attur.

M. DURAISWAMY,J.,

uma/Rj

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