IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD).No.4138 of 2017
and CMP.No.19404 of 2017

V.Nagarathinam ..Petitioner

Vs.

1.V.Manickam
2.Sirkali Municipality
Rep by its Commissioner,
Having office at Kamarajar
Street, Sirkali Town and Taluk,
Nagapattinam District ..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order of the District Munsif, Sirkali, dated 20.09.2017 made in I.A.No.1040 of 2017 in I.A.No.494 of 2009 in O.S.No.220 of 2006.

WEB COPY

For petitioner : Mr.S.Sounthar

For respondents : Mr.A.Muthukumar for R1

ORDER

According to the revision petitioner, the first respondent has filed a suit in OS.No.220 of 2006 on the file of the Court of

http://www.judis.nic.in

District Munsif, Sirkali against the revision petitioner and the second respondent for recovery of vacant possession of plaint 'C' schedule property after removal of all construction put up by the revision petitioner. In the aforesaid suit, the first respondent has also filed an IA.No.494 of 2009 for appointment of Advocate Commissioner to measure the suit property based on approved layout and title documents of parties, to note down the encroachment and to note down the physical features of the suit property. The trial court allowed the said application and subsequently, the report has been submitted before the court below. At this stage, the revision petitioner has filed the instant application in IA.No.1040 of 2017 seeking to re-issue warrant to District Surveyor and a Senior Advocate for measuring the suit property after based on title documents and approved layout on the ground that the commissioners have not executed the warrant as per directions issued by the trial court. The said application was dismissed by the court below. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

WEB COPY

2. The learned counsel for the revision petitioner would submit that the surveyor has not submitted the report in consonance with the warrant issued by the trial court and also not taking into consideration objection raised by the revision petitioner

http://www.judis.nic.in

with regard to the Advocate Commissioner's report and plan. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. Per contra, the learned counsel for the first respondent would submit that pursuant to the report submitted by the learned Advocate Commissioner, the revision petitioner has submitted an objection before the court below. If necessary, the revision petitioner can also examine the Advocate Commissioner and the surveyor at the time of trial. Therefore, the order of the court below is perfectly valid and there is no infirmity in the order passed by the court below.

4. In view of the submissions made by both the parties, admittedly, the revision petitioner has made his objection for the report submitted by the Advocate Commissioner. Further, the present application has been filed at the time of plaintiff side evidence was concluded. The revision petitioner can examine the Advocate Commissioner and the Surveyor at the time of trial. Therefore, there is no warrants to interfere with the orders passed by the court below. Hence, this Court is not inclined to accept the contentions of the revision petitioner and the same is liable to dismissed.

WEB COPY

http://www.judis.nic.in

5. However, considering that the suit is of the year 2006, this Court is inclined to direct the District Munsif, Sirkali to dispose of the said suit in accordance with law as expeditiously as possible preferably within the period of six months from the date of receipt of a copy of this Order.

6. In the result, the Civil Revision Petition is dismissed with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

12.12.2017

Speaking / Non Speaking order

Index :Yes/No

Internet :Yes/No

lok

WEB COPY

http://www.judis.nic.in

To

The District Munsif,
Sirkali.

WEB COPY

http://www.judis.nic.in

D.KRISHNAKUMAR.J,

lok

WEB COPY

12.12.2017

http://www.judis.nic.in