

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(P.D).No.239 of 2015
and M.P.No.1 of 2015

Lakshmi

.. Petitioner

-Vs.-

1. Palaniappan

2. Dharmaraj

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree passed in I.A.No.887 of 2013 in O.S.No.370 of 2013 dated 14.03.2014 on the file of the Additional District Munsif Court, Namakkal.

For petitioner ... Mr.N.Umapathi

For Respondents ... Mr.K.A.Mariappan

O R D E R

The plaintiff is the revision petitioner challenging the refusal to appoint an Advocate Commissioner in a suit for injunction.

2. The plaintiff claims title to the suit property by virtue of sale deed dated 29.04.2013, having purchased the same from Rajendran, Ravichandran, Saravanan and Sudha.

3. The respondent in his counter statement stated that there is a partition suit filed in O.S.No.144 of 2013, wherein, the petitioner / plaintiff is also a party. Since the petitioner / plaintiff in the present suit is also a party in the partition suit and the petitioner having purchased the property only from the sharers, it would be appropriate to wait for the result of the said partition suit, after which, the division of shares may take place by metes and bounds.

4. As the present suit is only for injunction and when the petitioner is not sure of the boundaries and the extent of purchase, a Commissioner cannot be appointed to gather evidence. Therefore, the learned trial Judge has rightly dismissed the application, which does not warrant any interference.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2017

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To

The Additional District Munsif Court,
Namakkal.

PUSHPA SATHYANARAYANA.J

srn

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