

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(PD)Nos.1347 and 1348 of 2013
and
M.P.No.1 of 2013**

Vallinayagam .. Petitioner in both the CRPs

Vs.

Meganayagi ..Respondent in both the CRPs

Common Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order of the Principal District Munsif Court at Tiruchengode, dated 20.11.2012 in I.A.Nos.864 and 865 of 2011 in O.S.No.261 of 2010.

(In both the CRPs)

For Petitioner : Mr.P.Valliappan

For Respondent : Mr.N.Manokaran

COMMON ORDER

The defendant in the suit in O.S.No.261 of 2010 on the file of the learned Principal District Munsif Court at Tiruchengode is the petitioner in both these Civil Revision Petitions.

2.The respondent has filed the said suit for Permanent Injunction and the petitioner herein resisted the suit on various grounds.

3.In the said suit at the instance of the respondent, an Advocate Commissioner remained appointed and he inspected the suit property with aid and assistance of Taluk Deputy Surveyor and has filed his report and plan.

4.To the said report, the respondent had not filed any objection. The report and plan of the Advocate Commissioner were marked as Exhibits-C1 and C2 respectively and accordingly the petitioner's side evidence was closed.

5.In the said factual backdrop the respondent filed two applications such that I.A.No.864 of 2011 to grant leave by the Trial Court to file his objections against Advocate Commissioner's report and I.A.No.865 of 2011 seeking for issuance of summons to the Taluk Deputy Surveyor for being examined as a Court Witness. The petitioner herein resisted both the applications on the grounds that having accepted the Advocate Commissioner report the same cannot be questioned and further contended that the applications were

intended to protract the suit proceedings.

6.Whereas, the Learned Trial Judge has allowed both the application in I.A.Nos.864 and 865 of 2011 and the said orders dated 20.11.2012 are under challenge in these Civil Revision petitions.

7.I heard Mr.P.Valliappan, learned counsel for the petitioner and Mr.N.Manokaran, learned counsel for the respondent and perused the entire materials available on record.

8.When the matter was taken up today, it is brought to notice of this Court that by an Order dated 19.07.2016, this Court has appointed an Advocate Commissioner to inspect the suit property to note down the physical features and the Advocate Commissioner has filed his report and sketch before this Court on 23.08.2016, having inspected the suit property on 16.08.2016. The Survey is again found to be conducted with the aid and assistance of Taluk Surveyor.

9.Therefore, considering the facts and circumstances of the case, the registry is directed to forward the said report dated 23.08.2016 and the sketch of the Advocate Commissioner to the Trial Court. The

Report and Sketch shall form part of the suit record, however, without prejudice to the objections that may be raised with regard to the report dated 23.08.2016 by either side. The petitioner as well as respondent is permitted to file objections.

10. In the result, both the Civil Revision Petitions are dismissed, by confirming the order passed in I.A.Nos.864 and 865 of 2011 in O.S.No.261 of 2010 respectively, dated 20.11.2012, on the file of the learned Principal District Munsif, Tiruchengode. No costs. Consequently, connected miscellaneous petition is closed.

03.04.2017

vs

Note: Issue order copy on 28.01.2019

Index: Yes/No

Internet: Yes/No

To

The Principal District Munsif Court,
Tiruchengode .

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M.V.MURALIDARAN, J.

VS



**Pre-Delivery order made in
CRP(PD)Nos.1347 and 1348 of 2013
and
M.P.No.1 of 2013**

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