

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMAINAM

C.R.P.(P.D.) No.1472 of 2012

and

M.P.No.1 of 2012

Ponnusamy

... Petitioner

Vs.

1. Chidambaram

2. Palaniyammal

3. Duraisamy

4. Palaniyammal

5. Rangammal

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the Sub-Court, Sathiyamangalam dated 04.07.2011 in I.A.No.46 of 2011 in I.A.No.3 of 2011 in O.S.No.2 of 2010.

For Petitioner : Mr.Veerasley

For M/s.M.Narayanaswamy

For R1 & R2 : Mr.R.T.Dorai Samy

For R3 to R5 : No appearance

ORDER

The Civil Revision Petition is filed challenging the order dated 04.07.2011 passed in I.A.No.46 of 2011 in I.A.No.3 of 2011 in O.S.No.2 of 2010 on the file of the Sub-Court, Sathiyamangalam.

2. The respondents filed the suit in O.S.No.209 of 1988 for partition and the petitioner/defendant filed the present revision petition. The petitioner/defendant filed I.A.No.46 of 2011 seeking appointment of Advocate Commissioner and the trial Court appointed the Advocate Commissioner who, in turn submitted a detailed report regarding the physical features of the suit properties. When the suit was posted for final decree, the petitioner / defendant filed another petition in I.A.No.3 of 2011 with a prayer to re-issue the warrant to the same Advocate Commissioner to revisit and file the additional report. The trial Court rejected the petition on the ground that the Advocate Commissioner was appointed and report was also received by the Court. Further, the petitioner / defendant filed their objections on the Advocate Commissioner's report also. The suit was also posted for final decree and at this point of time, extension of an Advocate Commissioner to file additional report need not be considered. Further, the trial Court found that the additional report is uncalled for and there is no necessity. The Advocate Commissioner cannot furnish any further opinion of his own report, which was already submitted with regard to the physical features of the identity of the suit property.

3. The learned counsel appearing for the petitioner contended that the additional report is very much necessary, in view of the fact that the

Advocate Commissioner in his earlier report has committed certain omissions and commissions, which was obtained by the petitioner / defendant in their objections, that is the reason, why the petitioner filed the petition seeking additional report from the same Advocate Commissioner.

4. The learned counsel appearing for the respondent opposed the contention of the learned counsel appearing for the petitioner by stating that the petition seeking extension of an Advocate Commissioner was filed only with an idea to prolong the matter.

5. Further, the Advocate Commissioner had already submitted his detailed report, which was received and put on record by the trial Court and the matter was listed for final decree. The suit was listed for final decree and therefore the present revision petition deserves no consideration. Therefore, this Court is not inclined to consider the arguments advanced by the learned counsel appearing for the petitioner. In view of the fact, that the suit was listed for final decree and further the Advocate Commissioner has submitted his report in detail and the petitioner/defendant also had submitted his objections on the Advocate Commissioner's report, which was also pending before the trial Court for adjudication. The trial Court shall consider all the documents and

S.M.SUBRAMANIAM,J.

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evidences while passing the final decree. Accordingly, the Civil Revision Petition No.1472 of 2012 is dismissed as being devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

11.01.2017

Index : Yes
Internet : Yes

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To
The Sub-Judge,
Sub-Court,
Sathyamangalam.

C.R.P.(P.D.) No.1472 of 2012

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