

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2209 of 2013

K.Sadasivam : Petitioner

versus

1.Anuradha

2.Kavitha

3.Sangeetha

: Respondents

PRAYER: Revision filed against the order dated 21.01.2013 in I.A.No.408 of 2011 in O.S.No.50 of 2011 on the file of the District Munsif cum Judicial Magistrate, Kodumudi.

For petitioner :: Mr.M.Guruprasad

ORDER

The learned District Munsif cum Judicial Magistrate, Kodumudi, appointed an Advocate Commissioner, pursuant to the application submitted by the respondents. The Advocate Commissioner submitted a report after inspecting the property. The petitioner submitted objection to the report. Thereafter, the petitioner filed an application in I.A.No.408 of 2011 to scrap the report and to appoint another Advocate Commissioner to inspect the property afresh and file a report. The application was dismissed by the Trial Court. The said order is under challenge in this civil revision

petition.

2. Heard the learned counsel for the petitioner.

3. The respondents filed the suit in O.S.No.50 of 2011 for declaration and injunction. In the said suit, the respondent filed a petition for appointing an Advocate Commissioner to inspect the property and to report about its physical features. It is a matter of record that the petitioner took part in the process of inspection made by the Advocate Commissioner and submitted his objections.

4. The petitioner after filing objections, filed an application in I.A.No.408 of 2011 to scrap the report and for appointment of another Advocate Commissioner to inspect the property. It is the contention of the petitioner that the report of the Advocate Commissioner and his plan are contrary to the physical features and as such, the report should be scraped.

5. In case the petitioner is of the view that certain aspects were omitted to be mentioned by the Advocate Commissioner or certain irrelevant facts were found mentioned in the report, it is always open to him to summon the Advocate Commissioner as a witness. There is no question of scraping the report on the ground mentioned in the affidavit filed in support of the application in I.A.No.408 of 2011. This aspect was

considered by the learned Trial Judge and the application was rightly dismissed. I do not find any error or illegality in the said order, warranting interference by invoking the jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

05.04.2017

Index:Yes/no
tar

To

The District Munsif cum Judicial Magistrate, Kodumudi.

K.K.SASIDHARAN, J.

(tar)

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