

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAMs

The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(PD)No.2808 of 2013

and

M.P.No.1 of 2013

Vijaya @ Vijayakumari

...Petitioners

Vs.

1. R.Elankumaran Abdullah,
2. Rashitha
3. G.Manoharan

... Respondents

Prayer :-

Civil Revision Petition, filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 08.08.2012, passed in I.A.No.390 of 2011, in O.S.No.316 of 2011, on the file of the Additional District Munsif Court, Mayiladuthurai.

For Petitioners	: Mr.K.Govi Ganesan
For Respondent	: Mr.S.Sounthar

ORDER

The petitioner filed a suit for injunction against the respondents. In the said suit, the petitioner filed an application for appointment of Advocate

Commissioner, in I.A.No.390 of 2011. The learned Principal District Munsif, Mayiladuthurai, dismissed the application on the ground that the petitioner has not made out a case for such appointment. The said order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel appearing on behalf of the petitioner. I have also heard the learned counsel for the respondents.

3. There is no dispute that the suit, in question, is a simple suit for injunction. The written statement filed by the respondents would indicate that there is no dispute with regard to the identity of the property. The respondents contended that their property is situated in different Survey numbers, and there is clear a demarcation by way of compound wall and barbed wire fencing. In fact, the respondents in the written statement contended that, in case, a commission is taken, it would reveal separate identity of the property.

4. The petitioner filed the application for commission on the ground that it would enable the Court to decide the matter on merits. It is more so on

account of the contention taken by the respondents that there is a clear demarcation of their property. These aspects were not taken note of by the learned Principal District Judge. I am, therefore, of the view that the order is liable to be set aside.

4. The impugned order, dated 08.08.2012 is set aside. The application in I.A.No.390 of 2011 is allowed.

5. The learned Additional District Munsif, Mayiladuthurai, is directed to dispose of the suit as early as possible, and, in any case, within a period of five months from the date of receipt of a copy of this order.

6. In the upshot, I allow the Civil Revision Petition. No costs. Consequently, connected Miscellaneous Petition is closed.

28.04.2017

sd

Index : Yes/No

To

The Additional District Munsif Court, Mayiladuthurai.

K.K.Sasidharan,J.,

sd

C.R.P.(PD)No.2808 of 2013

28.04.2017

<http://www.judis.nic.in>