



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017
(Reserved on 15.06.2017)

WEB COPY

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD)No.1127 of 2017

and

CM.P(MD)No.5159 of 2017

Chelladurai ... Petitioner/ Petitioner / 1st Defendant

vs.

1) Puvanendran

2) P.Mariamammal

3) K.Mariamammal

... Respondents/ Respondents/ Plaintiffs

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 13.03.2017 in I.A.No.131 of 2017 in O.S.No.104 of 2012 on the file of the Principal District Munsif Court, Kovilpatti.

For Petitioner : Mr.F.X.Eugene

ORDER

The revision petitioner herein is the 1st defendant in the suit. Aggrieved by the order of dismissal of his petition filed to re-open the case to facilitate the petitioner to mark Commissioner report filed in O.S.No.242/2012, this revision petition is filed. The ground of attack is that the Trial Court failed to appreciate the efforts of the petitioner/plaintiff to bring forth the real facts and the nature of the disputed land to arrive a proper adjudication by marking the document which is a Commissioner report in earlier suit pertaining to the present plaint schedule property.

2.Perusal of the impugned order reveals that the respondents herein have filed the suit for declaration and permanent injunction in respect of plaint schedule property bearing survey Nos.590/2A, 590/1B2B and vacant site with well East of S.No.590/2A and West of S.No.587 and S.No.580/1. The petitioner herein has filed his written statement. The Court has framed issues and also examined the witnesses on either side. When the case was listed for arguments on 24.01.2017, the application has been taken out by the revision petitioner to re-open the trial enabling him to file Commissioner report filed in O.S.No.242/2012, suit instituted by the respondents herein.



3. According to the revision petitioner, in the said suit, Commissioner has inspected S.No.580/1 and filed his report. The said suit has been dismissed by the Trial Court on 22.07.2015. The said fact has been suppressed by the plaintiffS and also it is necessary to elucidate the facts related to this suit and to arrive at proper conclusion. The said application has been resisted by the respondents herein on the ground that the defendants alone were party to the proceedings in O.S.No.242/2012 and not the plaintiffs. Furthermore, the said suit was in respect of only 14¼ cents in S.No.588/1. Whereas, the plaint schedule property in the present suit is different. Therefore, there is no error in the order of the Trial Court in dismissing the application to re-open and mark the alleged Commissioner report.

4. This Court on verification of the records finds that the earlier suit is only in respect of 14¼ cents in S.No.588/1. Whereas, the present suit is in respect of several other properties including the property in S.No.580/1, 11 cents out of 58 cents. There can be no relevancy of the Commissioner report filed in that suit for one of the present plaint schedule properties that too for a different extent. Therefore, I find no error in the order passed by the Trial Court.

Hence, the order passed by the Trial Court in I.A.No.131 of 2017 in O.S.No.104 of 2012 dated 13.03.2017 is confirmed and this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To
The Principal District Munsif,
Kovilpatti.

+1 CC to M/s.F.X.Eugene, Advocate, SR No. 61604.

NBI
PSM/KP/SAR2/06.07.2017/2P/3C

Order made in
CRP (PD) (MD) No.1127 of 2017
20.06.2017