



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P(PD) (MD)No.1318 of 2017
and
C.M.P.(MD)No.6460 of 2017

M.Kaviarasu

... Petitioner

-vs-

O.Krishnasamy Reddiar

... Respondent

PRAYER: Civil Revision Petition is filed, Under Article 227 of the Constitution of India, to call for the records relating to the impugned recording of memo and surveyor plan on 22.02.2017 filed by the Advocate/ Commissioner in I.A.No.111/2012 in O.S.No.51/2011 on the file of the learned District Munsif Court, Vilathikulam set aside the same.

For Petitioner : Mr.G.S.Ashok Adhithyan
For Respondent : No Appearance

ORDER

Heard the learned counsel for the petitioner. No representation for the respondent. Respondent called absent and set ex-parte.

2.It is found that the suit has been filed by the respondent/plaintiff for declaration, permanent injunction and mandatory injunction. It is also seen that pending suit, the Commissioner inspected the property and filed his report. It is further seen that the petitioner/defendant has filed his objections to the Commissioner report and the matter is proceeded further and the matter now is part-heard i.e at the stage of plaintiff's further evidence. The Commissioner, who had inspected the property has subsequently filed memo before the Court below along with the Survey report and plan and the same has been entertained by the Court. It is also further seen that the copy of the memo along with the survey report and plan have been furnished to both plaintiff counsel and defendant counsel.



with the survey report and plan, the present revision petition has been preferred.

4.It is found that the Commissioner is not required to file any separate petition for the receipt of survey report and plan. Though, belatedly, the memo has been filed by the Commissioner along with Survey report and plan, and the same had been furnished to both parties, if at all either the defendant or the plaintiff has any grievance over the survey report and plan subsequently filed by the Commissioner along with the memo, they have to file additional objections to the same and get along with the suit. Without resorting to the said course, challenging the same and thereby stalling the trial proceedings further cannot be appreciated.

5.In the light of the above position, the approach of the Court below in entertaining the memo filed by the Advocate Commissioner along with the survey report and plan cannot be as such faulted. However, it is open to both defendant as well as the plaintiff, if they are aggrieved by the survey report and plan, subsequently filed by the Commissioner, to prefer the additional objection and get along with the trial.

6.With the above observations, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Vilathikulam.

+ 1 CC TO Mr.M.SUBASH BABU, ADVOCATE IN SR No. 70066

MYR

TE/MR-KKR/SAR-II : 24/08/2017 : 2P/3C

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