



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).No.204 of 2017

and

CMP(MD).No.915 of 2017

Ramasamy (died)

1.Rajendran

2.Angammal

: Petitioners

Vs.

Malarkodi

: Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order made in I.A.No.329 of 2016 in O.S.No.160 of 2002 on the file of the Principal District Munsif Court, Thuraiyur, dated 16.12.2016.

For Petitioner

: Mr. R. Gowrishankar

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order made in I.A.No.329 of 2016 in O.S.No.160 of 2002 on the file of the Principal District Munsif Court, Thuraiyur, dated 16.12.2016.

2. The petitioners are defendants in O.S.No.160 of 2002 on the file of the Principal District Munsif Court, Thuraiyur. The respondent, plaintiff filed a suit for injunction, restraining the petitioners herein from his peaceful possession and enjoyment of the property. In the suit, the petitioners filed written statement on 22.07.2003 and filed additional written statement on 21.11.2005. The respondent filed interlocutory application in I.A.No.635 of 2008 to inspect the suit property and file report. The said application was ordered and Advocate Commissioner was appointed. He inspected the suit property on 27.12.2009 and filed his report along with the sketch on 21.06.2012. The petitioners and respondent were given an opportunity to file their objections to the report filed by the Advocate Commissioner, dated 21.06.2012. But, the petitioners did not file their objections to the report filed by the Advocate Commissioner, dated 21.06.2012. After four years of filing report by the Commissioner, the



petitioner filed present application for re-issue of warrant, on the ground that Advocate Commissioner has not properly measured the property and failed to correctly note the physical features.

3. The learned Judge considering the fact that Advocate Commissioner was appointed and he inspected the property on 27.12.2009 and filed his report on 21.06.2012 and the petitioners have not file any objections to the report even after giving an opportunity to file report, dismissed the application.

4. Against the said order of dismissal, present Civil Revision Petition has been filed.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials available on record it is seen that the suit filed in the year 2002 for permanent injunction and mandatory injunction to remove the obstructions in the pathway. The Advocate Commissioner was appointed in I.A.No.635 of 2008 and he inspected the property in the year 2009 and filed report on 21.06.2012 and the petitioners were given an opportunity to file their objections. The petitioners did not file any objection to the Advocate Commissioner's report. In the nature of the relief claimed by the respondent, it is for the respondent to prove his claim. The petitioners having failed to file any objection to the Advocate Commissioner's report dated 21.06.2012, is not entitled to maintain the present application after four years of filing of report.

7. The learned Judge has considered all the materials on record in proper perspective and has given cogent and valid reasons for dismissing the I.A.No.329 of 2016 in O.S.No.160 of 2002 on the file of the Principal District Munsif Court, Thuraiyur, dated 16.12.2016. Further, the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

8. In the result, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

9. The suit is of the year 2002, the learned Principal District Munsif, Thuraiyur, is directed to dispose of the suit as expeditiously as possible in any event not later than 30th June 2017.

Sd/-

Assistant Registrar(Writ)



trp

To

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The Principal District Munsif Court,
Thuraiyur.

+1cc to Mr.R.Gowrishankar, Advocate Sr.No. 5252

JAM/01.03.17 /RSK/ 3p-3c

CRP(MD).No.204 of 2017 and
CMP(MD).No.916 of 2017
01.02.2017