



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (MD) No.826 of 2017 (PD)
and
C.M.P. (MD) .No.3666 of 2017

P.Therasamary

... Petitioner

vs.

M.Nepolian

... Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.12.2016 passed in I.A.No.501 of 2016 in O.S.No.199 of 2013 on the file of the Principal District Munsif, Kumbakonam.

For Petitioner : Mr.R.Pandi Maharaja

ORDER

The revision petitioner, aggrieved by the report submitted by the Advocate Commissioner, has taken out an application to scrap the report in *toto*.

2.The Trial Court, after considering the application, has dismissed the same on the ground that the revision petitioner herein, who is the defendant in the suit, has already filed objections to the Commissioner's report. The Commissioner's report, not being a conclusion for proving possession or anything, the Commissioner's report along with objections will be considered together at the appropriate time. Further, the trial Court also stated that if at all the defendant is aggrieved by the report, he should have either sought for clarifications or he should have sought for re-issuance of warrant to make further inspection. Without doing so, the petitioner wants to scrap the entire report of the Advocate Commissioner.

3.Heard the learned counsel appearing for the revision petitioner.

4.The learned counsel for the revision petitioner contended that the sketch furnished by the Advocate Commissioner is not in



consonance with the patta issued and also the Commissioner has not noted the standing crops on either side of the property. With the above said submissions, the learned counsel for the revision petitioner sought for scraping of the Advocate Commissioner Report.

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5.The purpose of appointing the Advocate Commissioner is to assist the Court to note down the physical features found in the disputed properties. If there is any dispute between the parties regarding the extent of land as per the title document and the actual field possession, dispute arise. In the said circumstances, the option of seeking appointment of Advocate Commissioner to inspect the disputed property and note down the physical features arise. Therefore, one cannot expect that the Advocate Commissioner should give a plan as per the title document and not as per the filed possession. If any person expect so, then appointing the Advocate Commissioner to note down the physical features will be a force.

6.As pointed out by the learned District Munsif, if at all the revision petitioner is aggrieved by any omission or commission in the Advocate Commissioner report, he can seek for re-issuance of warrant to make further inspection. The request to scrap the Advocate Commissioner's report in *toto*, is untenable. The Trial Court has rightly rejected the plea. There is no necessity warrants to interfere the order passed by the Trial Court. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, the connected C.M.P is also closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif, Kumbakonam.

+1cc to Mr.R.PANDI MAHARAJA Advocate in SR. No.52979

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JS/SV.MMS/2P-3C/5.05.2017

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