



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2017

CORAM :

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD)No.27 of 2016

and

CMP(MD)No.119 of 2016

R.Azhagu Meenakshi

... Petitioner/Petitioner/Plaintiff

vs.

1)Thirumurugavelsamy

2)Muthukaruppan

3)Varadharaj

4)Annakodi

5)Subbulakshmi

6)S.M.Kalyani

... Respondents/Respondents/Defendants

Prayer:- Civil Revision Petition filed the under Article 227 of Constitution of India, against the order dated 16.04.2015 passed in I.A.No.35 of 2014 in O.S.No.60 of 2010 on the file of the District Munsif of Sattur.

For Petitioner : Mr.S.R.Sathan Boopathy for
Mr.S.Subbiah

For Respondents : Mr.M.P.Senthil

ORDER

The application for appointment of Advocate Commissioner was dismissed by the Trial Court on the ground that the dispute regarding the identity of the property can be ascertained even without appointing an Advocate Commissioner, merely based on the documents.

2.On perusal of the records, it appears that in the suit for declaration and possession, the defendants have questioned the identity of the property as well as the measurements relied by the plaintiff. Nevertheless, the Trial Court has not framed any issue regarding the identity of the suit schedule property.

3.Just because this application is taken out 4 years after filing of the suit, the application cannot be dismissed when there is prima facie necessity to note down the physical features of the suit property, more so, when there is a specific allegation in the written statement regarding the identity of the property.



4. Therefore, this Court finds that the order of the Trial Court is bound to be interfered. Accordingly, the impugned order is set aside. The application to appoint Advocate Commissioner is allowed. The subject property shall be inspected and measured with the help of a District Surveyor. The Trial Court shall appoint any suitable Commissioner for the said purpose and get the report within two months time and proceed with the suit in accordance with law.

5. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The District Munsif, Sattur.

+1 CC to M/s.S.SUBBIAH, Advocate, SR No. 15350

+1 CC to M/s.M.P.SENTHIL, Advocate, SR No. 15394

NBI

PSM/SV-MMS/23.03.2017/2P/4C

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