

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1434 of 2018 and

C.M.P.No.7663 of 2018

Maavadithurai

... Petitioner

Vs.

Pappathi

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 02.11.2017 made in I.A.No.1020 of 2017 in O.S.No.257 of 2010 on the file of District Munsif Court, Udumalpet and consequently allow the above Civil Revision petition.

For Petitioner : Mrs.R.Gouri

ORDER

The relief sought for in this revision is to set aside the fair and decreetal order dated 02.11.2017 made in I.A.No.1020 of 2017 in O.S.No.257 of 2010 on the file of the District Munsif Court, Udumalpet.

2. It is admitted fact that the revision petitioner is the defendant in the suit. Originally, the respondent filed the written statement during September 2010.

3. The respondent / plaintiff filed a suit in O.S.No.257 of 2010 against the petitioner herein for permanent injunction. The petitioner filed written statement and after framing issues, the trial was commenced on the side of the plaintiff. When it was posted for cross examination, the revision petitioner filed an application in I.A.No.1020 of 2017 in O.S.No.257 of 2010 for appointment of an Advocate Commissioner to ascertain the boundaries with the help of the licensed surveyor and to prepare rough sketch and plan.

4. After hearing both sides, on 02.11.2017, the trial Court dismissed the I.A.No.1020 of 2017 in O.S.No.257 of 2010.

5. Aggrieved against the said order, the revision petitioner is before this Court by way of this revision.

6. Heard the learned counsel for the petitioner and perused the available records.

7. It is an admitted fact that the petitioner and respondent are brother and sister and the suit is filed for permanent injunction against the revision petitioner. The suit is of the year 2010. After commencement of trial in the suit, the petitioner herein / defendant in O.S.No.257 of 2010 filed the Interlocutory application for appointment of Advocate Commissioner.

8. Admittedly, it is not in dispute that the suit is for permanent injunction filed by the respondent herein, in which the petitioner denied the title. The trial Court after considering the materials placed on record, rightly dismissed the application filed by the revision petitioner. Suit is filed only for injunction, it is the duty of the plaintiff to establish her possession on the date of filing of the plaint. No advocate Commissioner shall be appointed to find out possession of the property which has to be established by producing oral and documentary evidence.

P.VELMURUGAN, J.,

vum

9. This Court does not find any irregularity, illegality or perversity in the order passed by the trial Court and there is no merits in the revision petition.

10. In the result, the Civil revision petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No Costs.

23.04.2018

Index:Yes/No

Speaking order / Non speaking order

vum

To

The District Munsif,
The District Munsif Court,
Udumalpet.

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& C.M.P.No.7663 of 2018