

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2918 of 2014
& M.P.No.1 of 2014

Balakrishnan

.. Petitioner

Vs.

1.Mani

2.Selvi

3.Ravichandiran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.06.2014 made in I.A.No.75 of 2012 in O.S.No.22 of 2012 on the file of the District Munsif Court, Udumalaipettai.

For Petitioner : Mr.R.Kannan

For R1 & R2 : Mr.R.Babu

For R3 : Given up

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 17.06.2014 made in I.A.No.75 of 2012 in O.S.No.22 of 2012 on the file of the District Munsif Court, Udumalaipettai.

2.The petitioner is the first defendant, respondents 1 and 2 are the plaintiffs and 3rd respondent is the 2nd defendant in O.S.No.22 of 2012 on the file of the District Munsif Court, Udumalaipettai. The respondents 1 and 2 filed the said suit for permanent injunction restraining the petitioner and 3rd respondent from interfering with their peaceful possession and enjoyment of the 'A' and 'B' schedule property as the respondents 1 and 2 are the absolute owner of the suit property. The petitioner and 3rd respondent are trying to interfere with their possession. The respondents 1 and 2 filed I.A.No.75 of 2012 under Order XXVI Rule 9 of C.P.C for appointment of an Advocate Commissioner to inspect the property and measure the same with the help of Surveyor. According to the respondents 1 and 2, the petitioner and 3rd respondent with the help of henchmen tried to interfere and encroach the suit property and tried to damage the boundaries. If Advocate Commissioner is appointed and property is measured with the help of Surveyor and fix the boundaries, it will reduce the oral evidence.

3.The petitioner filed counter affidavit and mentioned about the earlier proceedings between the petitioner and first respondent and the judgment obtained in his favour. The petitioner denied that

he and 3rd respondent interfered with the possession of respondents 1 and 2. According to the petitioner, there is no cause of action for the suit and prayed for dismissal of the application.

4.The learned Judge considering the averments in the affidavit, counter affidavit and the fact that the petitioner and respondents are having properties adjacent to each other, allowed the application stating that it is necessary to appoint an Advocate Commissioner to fix the boundaries of the properties with the help of surveyor.

5.Against the said order dated 17.06.2014 made in I.A.No.75 of 2012 in O.S.No.22 of 2012, the petitioner has come out with the present Civil Revision Petition.

6.Heard the learned counsel for the petitioner as well as the respondents 1 and 2 and perused the materials available on record.

7.From the materials available on record, it is seen that the respondents 1 and 2 have alleged that petitioner and 3rd respondent tried to encroach the suit property and tried to damage the

boundaries of the respondents 1 and 2. In view of the said averments, the learned Judge has held that it is necessary to appoint an Advocate Commissioner to fix the boundaries of the respondents 1 and 2 with the help of surveyor as there is dispute with regard to the boundaries. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 17.06.2014 made in I.A.No.75 of 2012 in O.S.No.22 of 2012.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is of the year 2012, the learned District Munsif is directed to dispose of the suit as expeditiously as possible, in any event not later than four (4) months from the date of receipt of a copy of this order.

सत्यमेव जयते

WEB COPY

23.02.2018

Index : Yes/No

gsa

To

The District Munsif,
Udumalaipettai.

V.M.VELUMANI,J.

gsa



C.R.P.(PD)No.2918 of 2014
& M.P.No.1 of 2014

WEB COPY

23.02.2018