

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.315 of 2015
& M.P.No.1 of 2015

M.Subramani

.. Petitioner

Vs.

- 1.Kadumbadi @ Chinnagovindasamy
- 2.C.Sekar
- 3.C.Karungaran
- 4.C.Ganesan
- 5.P.Lakshmi
- 6.D.Rama
- 7.Muniyammal
- 8.C.Mani
- 9.Dakshinamoorthy
- 10.V.Sathiyamoorthy
- 11.C.Vasuki
- 12.P.Murugan
- 13.A.Munusamy
- 14.A.Mariasamy
- 15.A.Chithiraselvi
- 16.Akasaperumal

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 11.04.2014 made in I.A.No.2045 of 2013 in O.S.No.453 of 2011 on the file of the Principal District Munsif, Alandur.

For Petitioner : Mr.M.V.Seshachari

For R1 to R6 : Mr.T.S.Kari

For R7 to R11 : No appearance

For R12 to R16 : Mr.A.Adithya
for M/s.Paul & Paul J.Hudson

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 11.04.2014 made in I.A.No.2045 of 2013 in O.S.No.453 of 2011 on the file of the Principal District Munsif, Alandur.

2.The petitioner is the plaintiff and respondents are the defendants in O.S.No.453 of 2011 on the file of the Principal District Munsif, Alandur. The petitioner filed the said suit against the respondents for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit B Schedule property, alienating or making any encumbrances over any portion of the suit B Schedule property. The 12th respondent filed written statement and other respondents adopted the same and are contesting the suit. The petitioner filed I.A.No.2045 of 2013 for appointment of an Advocate Commissioner to inspect the suit property, to measure the same with the help of Taluk Surveyor and file report and sketch plan. According to the petitioner, earlier Advocate Commissioner appointed in application

I.A.No.944 of 2011 did not measure the property along with Taluk Surveyor. In view of the same, it is necessary to appoint another Advocate Commissioner to measure the suit A & B Schedule properties and extent of land with the help of Taluk Surveyor and fix boundaries F line and also respondents' extent of land available as per the document and file report and sketch plan.

3.The 12th respondent filed counter affidavit which was adopted by respondents 13 to 16 and opposed the said application. According to the respondents, the Advocate Commissioner inspected the property, measured the same and filed his report on 01.08.2011. The petitioner did not file any objection to the said report. On the other hand, the respondents only filed objection. Without filing any objection and without seeking to scrap the earlier report of Advocate Commissioner, the present application is not maintainable and prayed for dismissal of the application.

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4.The learned Judge, considering the averments in the affidavit, counter affidavit and materials on record, dismissed the application.

5. Against the said order of dismissal dated 11.04.2014 made in I.A.No.2045 of 2013 in O.S.No.453 of 2011, the present Civil Revision petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner as well as the respondents 1 to 6 and 12 to 16 and perused the materials available on record. Though notice was served on the respondents 7 to 11 and their names are printed in the cause list, there is no representation either in person or through counsel.

7. From the materials on record, it is seen that the suit is filed by the petitioner for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit B Schedule property, alienating or making any encumbrances over any portion of the suit B Schedule property. On the application filed by the petitioner in I.A.No.944 of 2011, an Advocate Commissioner was appointed. He filed his report along with the sketch after inspecting and measuring the suit property. The petitioner has filed the report of the Advocate Commissioner in the additional typed set of papers. From the report of the Advocate Commissioner, it is seen that the petitioner only identified the suit property and Advocate Commissioner measured the suit property

along with FMB sketch. The petitioner has not filed any objection to the report filed by the Advocate Commissioner on 01.08.2011. On the other hand, the respondents only filed objection to the report on 23.01.2012. The learned Judge took note of the fact that earlier the petitioner did not seek assistance of Taluk Surveyor to measure the suit property and also held that it is for the petitioner as plaintiff to prove his case for the relief sought for in the suit. There is no error in the reasoning of the learned Judge in the order dated 11.04.2014 made in I.A.No.2045 of 2013 in O.S.No.453 of 2011, warranting interference by this Court.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index :: Yes/No
Internet :: Yes/No

gsa

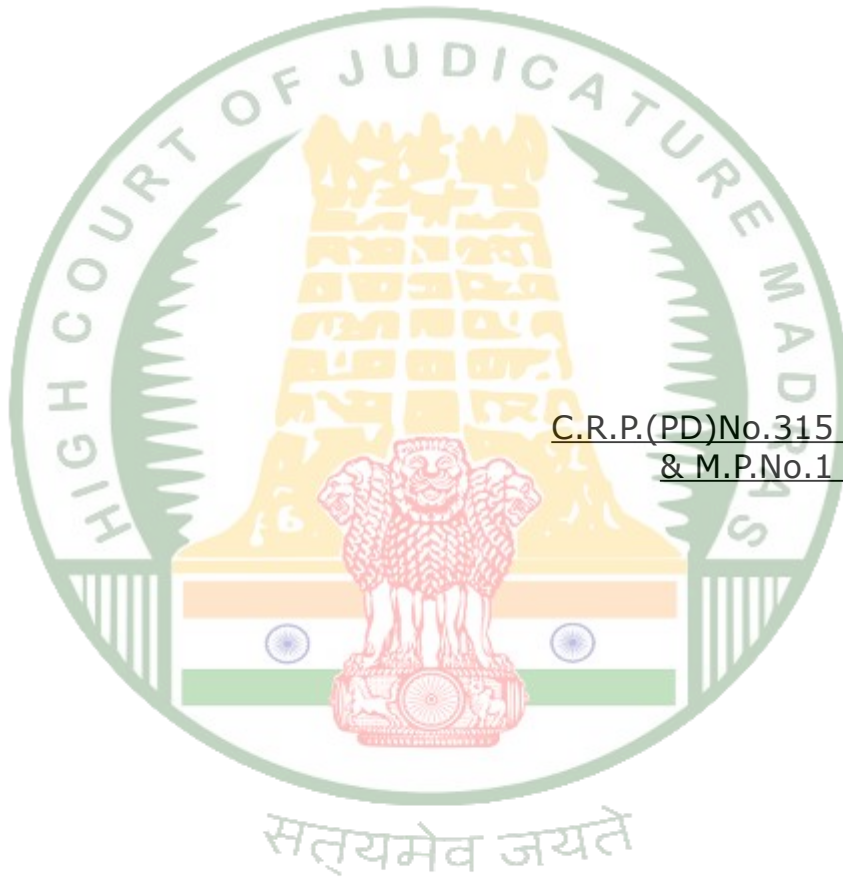
To

The Principal District Munsif,
Alandur.

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V.M.VELUMANI,J.

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