

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.459 of 2015
& M.P.No.1 of 2015

K.L.Kovalan

.. Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary to the Government
Revenue Department
Fort St. George,
Chennai 600 009.

2.The Commissioner,
Revenue Administration,
Chepauk, Chennai

3.The District Collector,
Coimbatore

4.The Tahsildar
Taluk Office
Tiruppur

S.Subramaniam (Died)

5.S.Padmanaban

6.S.Muruganantham

7.S.Lakshmiammal

8.V.Amirthavalli (Stamp Vendor)

9.B.Kanagaraathinam

.. Respondents

WEB COPY

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 06.01.2015 made in I.A.No.1135 of 2014 in O.S.No.351 of 2005 on the file of the District Munsif Court, Tiruppur.

For Petitioner : M/s.Mukunth
for M/s.Sarvabhauman Asso.
For R1 to R4 : M/s.Madhumathi,
Additional Government Pleader(CS)
For R5 to R9 : M/s.M.Mohideen

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 06.01.2015 made in I.A.No.1135 of 2014 in O.S.No.351 of 2005 on the file of the District Munsif Court, Tiruppur.

2.The petitioner is plaintiff, respondents 1 to 4 are the defendants 1 to 4 and respondents 5 to 9 are the defendants 6 to 10 in O.S.No.351 of 2005 on the file of the District Munsif Court, Tiruppur. The petitioner filed the said suit against the 5th defendant and respondents 5 and 6 for mandatory injunction, directing them to remove the encroachment and fencing made by them in the suit

property. The 5th defendant filed written statement on 24.01.2006. The petitioner filed I.A.No.1569 of 2007 for appointment of an Advocate Commissioner along with Taluk Surveyor's assistance to measure the suit property. The said application was dismissed initially. Against the said order, the petitioner filed C.R.P.No.3513 of 2007. This Court allowed the Civil Revision Petition and Advocate Commissioner was appointed. He inspected the suit property and measured the same with the help of Surveyor as per the FMB Sketch and filed his report with plan on 06.11.2014. The petitioner filed objection to the report on 17.11.2014. The petitioner filed present application I.A.No.1135 of 2014 under Order XXVI Rule 10(3) and Section 151 of C.P.C to scrap the report of the Advocate Commissioner and for reissue of warrant of commission with the help of new Surveyor as per the computerised blue print obtained by the petitioner. According to the petitioner, he gave memo of instructions to the Advocate Commissioner to measure the property as per the blue print. The measurement given by the Advocate Commissioner and Surveyor is not correct. In the circumstances, he has filed the present application.

3.The 5th respondent filed counter affidavit and denied all the averments mentioned by the petitioner. According to the respondents, the Surveyor measured the property as per the FMB Sketch and measurements given in the reports are correct. The petitioner is not entitled to use the blue print as it is not an authenticated document and prayed for dismissal of the application.

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

5.Against the said order of dismissal dated 06.01.2015 made in I.A.No.1135 of 2014 in O.S.No.351 of 2005, the present Civil Revision Petition is filed by the petitioner.

6.Heard the learned counsel for the petitioner, learned Additional Government Pleader (CS) appearing for the respondents 1 to 4 and learned counsel for the respondents 5 to 9 and perused the materials available on record.

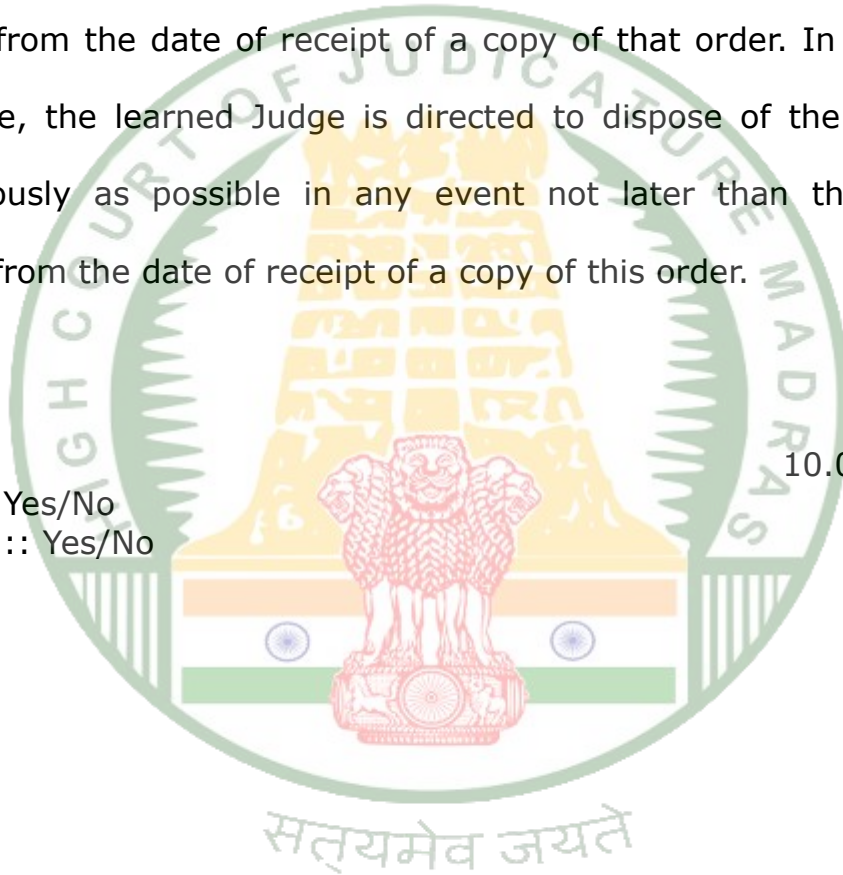
7.From the impugned order of the learned Judge, it is seen that the petitioner has prayed for scrapping of the report and reissue of warrant of commission to measure the property with new Surveyor as per the blue print obtained by him. From the order, it is seen that the Surveyor measured the property as per the FMB sketch and furnished the plan to the Advocate Commissioner who has filed the same along with his report. The petitioner has not produced any document to show that the blue print produced by him is authenticated and does not dispute the fact that Surveyor measured the property as per the FMB sketch.

8.The learned Judge considered all the above facts and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 06.01.2015 made in I.A.No.1135 of 2014 in O.S.No.351 of 2005. The petitioner has filed objection to the report of the Advocate Commissioner. It is open to the petitioner to examine the advocate Commissioner, if he so desires.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Already this Court in C.R.P.No.3513 of 2007 has directed the learned Judge to dispose of the suit within a period of three (3) months from the date of receipt of a copy of that order. In view of the same, the learned Judge is directed to dispose of the suit as expeditiously as possible in any event not later than three (3) months from the date of receipt of a copy of this order.

10.01.2018

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



WEB COPY

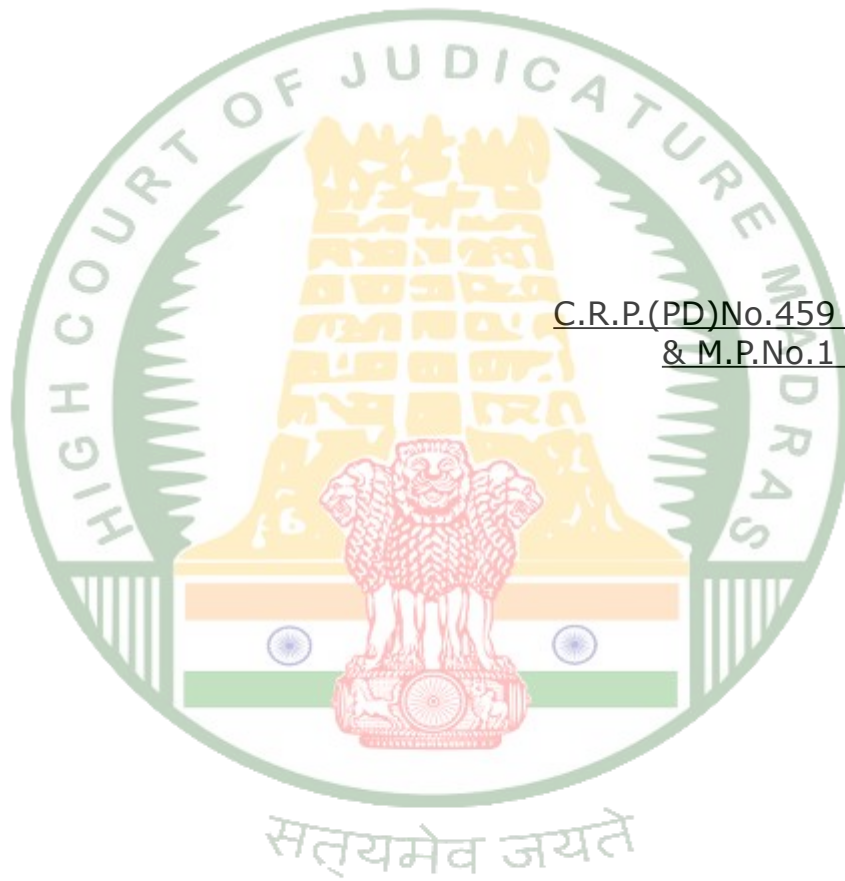
To

- 1.The Secretary to the Government
Government of Tamil Nadu
Revenue Department
Fort St. George,
Chennai 600 009.
- 2.The Commissioner,
Revenue Administration,
Chepauk, Chennai
- 3.The District Collector,
Coimbatore
- 4.The Tahsildar
Taluk Office
Tiruppur
- 5.The District Munsif,
Tiruppur.

WEB COPY

V.M.VELUMANI, J.

gsa



C.R.P.(PD)No.459 of 2015
& M.P.No.1 of 2015

WEB COPY

10.01.2018