



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P.(PD)(MD)No.52 of 2018

and

C.M.P(MD)No.222 of 2018

V.Jenagachandiran

: Petitioner/Petitioner/Plaintiff

vs.

1.A.Nagarathinam
2.R.Rajeshwari
3.C.Prabhavathi
Janakiammal (Deceased)
4.S.S.Janarthanan
5.Harish
6.S.E.Kalyanasundaram
7.Solomon
8.Isravel
9.Vijaykumar
10.Ashokumar
11.Sampathkumar
12.Premkumar
13.Vinodkumar

: Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.275 of 2017 in O.S.No.586 of 2011 dated 06.11.2017 on the file of the Additional District Munsif Court, Thoothukudi.

For Petitioner : Mr.C.D.Johnson

ORDER

This Civil Revision Petition is filed against the order passed in I.A.No.275 of 2017 in O.S.No.586 of 2011 dated 06.11.2017 on the file of the Additional District Munsif Court, Thoothukudi.

2.The petitioner is the plaintiff in the suit in O.S.No.586 of 2011 and the suit was filed for declaration of title in respect of the suit property and for consequential injunction and the petitioner/plaintiff claims that he is in possession. The suit was filed in the year 2011 and the same was contested by the respondents by filing independent written statement. After examination of



witnesses on both sides, the petitioner has filed an application in I.A.No.275 of 2017 in O.S.No.586 of 2011 for appointment of Advocate Commissioner to measure the four boundaries in respect of the suit properties with the assistance of valuable surveyor.

3.The petitioner claims title over the suit properties on the basis that his predecessors in interest had title to the properties. The dispute is purely in respect of title to the suit property which is the subject matter of the suit. There is no dispute with regard to the identity of the properties and no issue is raised either by the petitioner or by any of the respondents with regard to the extent of the property or in relation to any boundary dispute. In such circumstances, the trial Court has rightly held that the application for appointment of Advocate Commissioner is unnecessary and that it is not required in the present case. Where the dispute is purely with regard to the title to the property. Merely because one of the defendants has stated during cross examination that he has no objection for appointing Advocate Commissioner to measure the property, the petitioner cannot maintain the application for appointment of Advocate Commissioner. The Trial Court also found that the application is totally unwarranted and it is only for the purpose of delaying the progress without any *bona fide*.

4.This Court is not able to find any irregularity or illegality or infirmity in the order passed by the trial Court. Hence this petition is dismissed and the order passed by the Additional District Munsif, Thoothukudi, in I.A.No.275 of 2017 in O.S.No.586 of 2011 dated 06.11.2017 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The Additional District Munsif, Thoothukudi.

CMR

TE/GT/SAR-2 : 06/02/2018 : 2P/2C

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