



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 18.09.2018
DELIVERED ON : 01.10.2018
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No.201 of 2015
and
M.P. (MD) No.1 of 2015

Lingaraj

.. Petitioner/Defendant

Vs.

1.Velkaniammal
2.Leelavathi
3.Harikrishnan
4.Krishnaveni
5.Ammal Thangam
6.Krishna Thangam

.. Respondents/Plaintiffs

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.721 of 2014 in O.S.No.97 of 2013 on the file of the District Munsif, Santhakulam dated 11.12.2014.

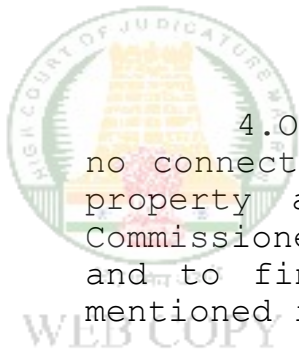
For Petitioner	: Mr.R.Balakrishnan
For Respondents 1 and 3	: Mr.S.M.Lingeswaran
For Respondent No.2	: No Appearance
For Respondents 4 to 6	: Dismissed vide Court order dated 14.12.2017

ORDER

Heard Mr.R.Balakrishnan, learned counsel appearing for the petitioner and Mr.S.M.Lingeswaran, learned counsel appearing for the respondents 1 and 3.

2.This petition has been filed to set aside the fair and decreetal order passed in I.A.No.721 of 2014 in O.S.No.97 of 2013 on the file of the District Munsif, Santhakulam dated 11.12.2014.

3.The respondents herein are the plaintiffs and the petitioner herein is the defendant in the suit. The respondents filed the suit in O.S.No.97 of 2013 seeking for a prayer of permanent injunction. The petitioner has filed a petition in I.A.No.721 of 2014 for appointment of Commissioner. The petitioner was dismissed by the trial Court. Against the order of dismissal, the petitioner has filed the present revision petition.



4. On the side of the petitioner, it is stated that there is no connection between the boundaries stated in the schedule of the property and the survey number of the suit property and the Commissioner has to visit the property with the help of the Surveyor and to find out the correct survey number within the boundaries mentioned in the suit schedule of property.

5. On the side of the respondents, it is stated that when the suit was pending for examination of additional witness on the side of the defendant, the petitioner with a motive to drag to the case has filed the present petition. The petitioner has no title over the property and the petitioner is trying to gather evidence by way of appointment of the Commissioner.

6. On the side of the petitioner, it is stated that the petitioner is only defendant in the suit and the burden is upon the respondents to prove the case. But the trial Court has wrongly decided that the petitioner is trying to gather some evidence.

7. Records perused. The petitioner is now questioning the identity of the suit property. The petitioner has filed the petition to find out the survey number pertaining to the four boundaries stated in the plaint. It is the duty of the plaintiff to prove the description and identity of the suit property. The suit is for bare injunction. The respondents have to prove their case by producing documents. The burden is not upon the petitioner. The suit is at the stage of defence side witness. No prejudice will be caused to the petitioner. In this circumstances, there is nothing sufficient enough to interfere the order passed by the trial Court. This Civil Revision Petition is dismissed. No Costs. Consequently, M.P. (MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CrI.side)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The District Munsif,
Sathankulam.

C.R.P. (PD) (MD) No.201 of 2015
01.10.2018

MRN

ES/PM/SAR 3/08.11.2018/2P/2C