



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.04.2018

CORAM

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP(MD).(PD)No.2021 of 2015
and M.P.(MD) No. 1 of 2015

Ganesan .. Petitioner/Petitioner/3rd plaintiff

Vs.

1.Arumugam ..Respondent/Respondent/Defendant

2.Palaniammal

3.Thangian

4.Valarmathi

... Respondent 2 to 4/Petitioners 2 to 4/
Plaintiffs 2, 4 & 5

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 18.02.2015 made in I.A.No.1033 of 2014 in O.S.No.1369 of 2010 on the file of the learned Principal District Munsif, Trichy.

For Petitioner : Mr.B.Jameel Arasu

O R D E R

The Civil Revision Petition has been preferred to set aside the fair and decretal order dated 18.02.2015 made in I.A.No.1033 of 2014 in O.S.No.1369 of 2010 on the file of the learned Principal District Munsif, Trichy.

2. I.A.No.1033 of 2014 was filed by the the petitioner/third plaintiff seeking to re-issue the Commissioner's warrant to the same Advocate Commissioner and to direct the Commissioner to measure the suit property with the help of surveyor. The said petition was filed on the ground that the Advocater Commissioner, who was appointed at the instigation of the defendant, without issuing any notice inspected the property and filed a report. Therefore, the petitioner sought for re-issuance of the warrant to the same Advocate Commissioner and also to direct to re-inspect the property and file a report in the presence of the petitioner.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Time and again, the Hon'ble Apex Court and this Court categorically held that unless the first report is scrapped by the



court, no party is entitled to seek for re-issuance of warrant or to re-appoint the very same Advocate Commissioner. Admittedly, the petitioner without seeking for any order to scrap the report directly sought for re-issuance of warrant to the same Advocate Commissioner, which is not maintainable. Therefore, I am of the considered view that the petitioner ought to have approach the court below and file an application for scrapping the earlier report filed by the Advocate Commissioner and thereafter, seek for re-issuance of warrant to the same Advocate Commissioner or for re-appointment of any other Advocate Commissioner.

5. The petitioner is directed to file an appropriate application for scrapping the earlier report and thereafter, file an application for re-issuance of the warrant to the same Advocate Commissioner or seeking for appointment of another Advocate Commissioner. The learned Principal District Munsif, Trichy, is directed to entertain the said application and pass orders after giving notice to other party and decide the same in accordance with law.

6. In the result, this Civil Revision Petition is closed by confirming the order passed in I.A.No.1033 of 2014 in O.S.No.1369 of 2010 on the file of the learned Principal District Munsif, Trichy. No costs. Consequently, connected M.P.(MD) No. 1 of 2015 is also closed.

Sd/
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif, Trichy.

+1cc to Mr.B.JAMEEL ARASU, Advocate, SR.No. 60654

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