



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.2241 of 2017 and
C.M.P. (MD) No.10933 of 2017

R.P.Krishnamoorthy

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Iyyana Sanakaravadivu
2. V.Madhevan Pillai
3. Vaithiammal @ Kattiammal
4. C.Mani
5. Muthulakshmi
6. C.Sankar
7. Velappan
8. Subbulakshmi

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and decreetal order passed by the learned I Additional Sub Judge, Nagercoil, in I.A.No.11 of 2014 in O.S.No.102 of 2011, dated 09.08.2017 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar
For R-1, R-2 &
R-7 & R-8: Mr.M.P.Senthil

ORDER

The plaintiff in O.S.No.102 of 2011 on the file of the I Additional Sub Court, Nagercoil, is the Revision petitioner herein. The said suit is one for demarcation of 5 cents of land claimed by the plaintiff and for permanent injunction. In the said suit, the plaintiff filed I.A.No.11 of 2014 for appointment of an Advocate Commissioner. The Court below by order dated 09.08.2017 dismissed the same. The said order is under challenge in this Civil Revision petition.

2. Heard the learned counsel on either side.

3. The suit prayer is that out of 15 cents in R.S.No.850/9, demarcation is sought for 5 cents lying along with the properties



belonging to defendants 2 to 6. But in I.A.No.11 of 2014, the plaintiff wants Advocate Commissioner to be appointed to note down the following points:-

"1. To note the general features of the
plaint schedule property.

2. To measure the survey No.850/9 of
Neendakari B village and to locate the
various features available in the property
and find out the availability of vacant land
and its area."

4. The Revision petitioner has nowhere asked for localising the 5 cents of lands on which he claims entitlement. Instead he wants the entire survey number to be measured. That is why, the Court below rightly came to the conclusion that when there is no dispute with regard to identity of the property, there is no need for appointing an Advocate Commissioner.

5. The order passed by the learned I Additional Subordinate Judge, Nagercoil, in I.A.No.11 of 2014 in O.S.No.102 of 2011, dated 09.08.2017, is affirmed. This Civil Revision petition stands dismissed. The Revision petitioner is at liberty to renew his application with a specific prayer. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS-I)

To

The I Additional Subordinate Judge,
Nagercoil.

+ 1 CC TO MR.K.P.NARAYANAKUMAR, ADVOCATE IN SR NO.84966
+ 1 CC TO MR.M.P.SENTHIL, ADVOCATE IN SR NO.84462

PMU

BU/RSK/SAR-I :17.10.2018 : 2P/4C