



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) Nos.1408 and 1409 of 2018

and

C.M.P. (MD) No.6058 of 2018

Murugan

... Petitioner/Petitioner/Defendant
(in both petitions)

Vs.

1.Santhakumari
2.Syamalakumari
3.Kumari Vijayalakshmi
4.Jayakumari
5.Sudhakumari
6.Sivakumar
7.Geetha kumari

... Respondents/Respondents/Plaintiffs
(in both petitions)

Common Prayer: Civil Revision Petitions - filed under Article 227 of the Constitution of India, to set aside the decreetal order made in I.A.No.254 and 225 of 2017 in O.S.No.321 of 2007 on the file of the II Additional District Munsif, Kuzhlithurai dated 24.01.2018.

For Petitioner : Mr.V.M.Balamohan Thampi
For Respondents : Mr.K.Sreekumaran Nair
(in both petitions)

COMMON ORDER

The defendant in O.S.No.321 of 2007 on the file of the Second Additional District Munsif, Kuzhlithurai, is the revision petitioner herein. The suit is for permanent injunction and damages. The plaintiffs applied for appointment of an Advocate Commissioner. The Advocate Commissioner filed his report. He was also examined. To scrap the said report, defendant filed I.A.No.254 of 2017 and to reopen his side, the defendant took out I.A.No.255 of 2017. The Court below, by orders impugned in the civil revision petitions dismissed the said I.A.No.254 and 255 of 2017. Questioning the same, the civil revision petitions have been filed.

2. It is not in doubt that the Commissioner had disregarded the memo of instructions given by the defendant for measuring property with the help of Taluk Surveyor. In fact, in his deposition also, the Commissioner has stated that he did not measure the property with reference to the survey plan.



3. In these circumstances, this Court has to necessarily come to the conclusion that the report filed by him is liable to be scrapped and accordingly, the orders impugned in the civil revision petitions namely, I.A.No.254 and 255 of 2017 are set aside. However, the Court below shall re-issue the warrant to the very same Commissioner, who shall carry out the warrant by taking assistance of the Taluk Surveyor. The said exercise shall be completed as expeditiously as possible.

4. The suit is of the year 2007. Immediately after receipt of the Commissioner report, the suit shall be disposed of within a period of four months thereafter. Accordingly, the civil revision petitions are allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

The II Additional District Munsif,
Kuzhlithurai.

+1CC to Mr.V.M.Balamohan Thampi, Advocate, SR.No.88217

+1CC to Mr.K.Sreekumaran Nair, Advocate, SR.No.88405

C.R.P. (MD) (NPD) No.1408 and 1409 of 2018
03.10.2018

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ES/SKN/RSK/SAR 2/09.11.2018/2P/4C