



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P.(PD)(MD)No.1404 of 2018

and

C.M.P.(MD).No.6056 of 2018

1.A.Ayisha Beevi

2.K.Bharani

3.A.Gaafar

...Petitioners/Respondents 1 to 3

Defendants 1 to 3

Vs.

1.Ganesan

...1st Respondent/Petitioner/Plaintiff

2.Rasina Beevi

3.The District Collector,
Office of District Collectorate,
Sivagangai,
Sivagangai District.

4. The Thasildar,
Thasildar Office,
Thirupattur Taluk,
Sivagangai District.

5. The Block Development Officer,
Panchayat Union Office,
Thirupattur,
Thirupattur Taluk,
Sivagangai District.

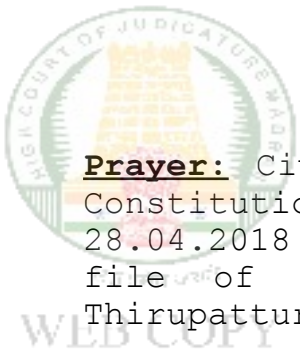
6. Panchayat Secretary,
Panchayat Board,
S.Velangudi,
Thirupattur Taluk,
Sivagangai District.

7. The Chief Engineer,
Tamil Nadu Electricity Board,
Sivagangai Town,
Sivagangai District.

8. Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Thirupattur Town,
Thirupattur Taluk,
Sivagangai District.

.. Respondents 2 to8/

Respondents 4to10/Defendants 4 to 10



Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 28.04.2018 made in I.A.NO.740 of 2017 in O.S.No.80 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Thirupattur.

For Petitioner : Mr.A.Arumugam for
M/s.Ajmal Associates
For R1 : Mr.S.Balaji
For R3 & R4 : Mr.Aayiram K Selvakumar
Additional Government Pleader

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 28.04.2018 passed in I.A.NO.740 of 2017 in O.S.No.80 of 2017 by the learned District Munsif cum Judicial Magistrate, Thirupattur.

2.The petitioners are the defendants in the suit in O.S.No.80 of 2017 and the first respondent is the plaintiff. The first respondent/plaintiff has filed an application in I.A.No.740 of 2017 under Order 26 Rule 9 C.P.C., before the District Munsif cum Judicial Magistrate, Thirupathur, for appointment of Advocate Commissioner to survey the suit property with the help of Village Administrative Officer and file a report, which was allowed by the trial Court. Challenging the same, the petitioners/defendants are before this Court.

3.Heard the learned counsel for the petitioners, learned counsel for the first respondent and the learned Additional Government Pleader appearing for R3 and R4.

4.The learned counsel appearing for the petitioners represented before this Court that the order passed in I.A.No.740 of 2017 clearly shows that the entire property belongs to both the plaintiff as well as the defendants. The learned counsel for the petitioners seeks only clarification before this Court that the Commissioner should inspect both the properties and file his report.

5.The learned counsel for the first respondent/plaintiff, represents before this Court that the Advocate Commissioner already inspected the property.

6.On a bare reading of the prayer sought for by the first respondent/plaintiff, it is seen that the appointment of Advocate Commissioner sought for by the first respondent/plaintiff is only in respect of the encroachment made by the petitioners/defendants in his property. Whereas the petitioners in this petition seek clarification whether the Advocate Commissioner is going to inspect both the properties and file a report. Therefore, this Court is



inclined to pass the following order:

This civil revision petition is disposed of with a direction to the learned District Munsif cum Judicial Magistrate, Thirupattur, to instruct the Advocate Commissioner to inspect the suit schedule property mentioned in I.A.No.740 of 2017 and file a report within a period of two weeks from the date of instruction given by the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The District Munsif cum
Judicial Magistrate,
Thirupattur.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to Mr.AJMAL ASSOCIATES, Advocate in SR.No.72433

+1 CC to Mr.S.BALAJI, Advocate in SR.No.72420

NS

RJ/SKN/RSK/SAR-4/30/07/2018 - 3P/6C

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