



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2314 of 2016

and

C.M.P. (MD)No.10663 of 2016

S.Arivalagan

... Petitioner/Respondent/
Defendant

Vs.

Karuthakkan Nadar

... Respondent/Petitioner/
Plaintiff

PRAYER: Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 29.09.2016, passed in I.A.No.144 of 2016 in O.S.No.34 of 2016 on the file of the Additional District Munsif of Nanguneri, by allowing this Civil Revision Petition.

For petitioner : Mr.S.Subbiah,
Senior Counsel
for Mr.G.Aravinthan

For respondent : Mr.S.Meenakshi Sundaram,
Senior Counsel
for Mr.K.Karthick

ORDER

The respondent filed O.S.No.34 of 2016 on the file of the Additional District Munsif Court, Nanguneri, seeking rectification of a document executed by the father of the revision petitioner in the year 1987. According to the plaintiff, the sale deed contains the first schedule as the property conveyed. According to the plaintiff as per the real intention of the parties, the description must be as set out in the second schedule. The revision petitioner has filed his written statement opposing the suit claim. According to him the second schedule has been sold to one Sundara Nadar. The plaintiff filed I.A.No.144 of 2016 for appointing an advocate commissioner. The Court below by order dated 29.09.2016 allowed the said I.A. The defendant questions the correctness of the said order.



3. According to the Senior Counsel appearing for the revision petitioner, B schedule belongs to Sundara Nadar and therefore the order impugned in the Civil Revision Petition could not have been passed.

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4. This Court finds considerable force in the said submission. Therefore, the respondent herein is directed to implead the said Sundara Nadar in I.A.No.144 of 2016. If Sundara Nadar contends that B schedule property belongs to him and that he is in possession and enjoyment and he opposes the prayer for appointing an advocate commissioner, the order impugned in this Civil Revision Petition will stand set aside. If Sundara Nadar does not have any objection, the order impugned in this Civil Revision Petition shall be given effect to.

5. With this direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS-III)

To:

The Additional District Munsif,
Nanguneri.

+1 CC To MR.K.KARTHICK, Advocate SR. NO. 87902

ORDER MADE IN
C.R.P. (PD) (MD) .No.2314 of 2016
and
C.M.P. (MD) No.10663 of 2016
28.09.2018

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