



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.1502 of 2018

and

C.M.P (MD) .No. 6535 of 2018

Sreekala Devi

...Petitioner/Petitioner/Defendant

Vs.

1.Gopi

2.Leela

...Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order dated 06.06.2018 of the learned Principal District Munsif, Kuzhithurai made in I.A.No.178 of 2017 in O.S.No.219 of 2016 on his file, allowing the said I.A.

For Petitioner :Mr.K.N.Thampi

For Respondents :Mr.R.Nanda Kumar

O R D E R

The defendant in O.S.No.219 of 2016 on the file of the learned Principal District Munsif, Kuzhithurai, is the revision petitioner herein. It is a suit for declaration of the plaintiffs' right of his easement by prescription over the 'C' schedule property and consequential permanent injunction.

2.In the suit, the plaintiff took out I.A.No.657 of 2016 for appointment of an Advocate Commissioner. The Advocate Commissioner filed her report and plan. To scrap the same the defendant has filed I.A.No.178 of 2017. The Court below by the order impugned in this Civil Revision Petition, dismissed the said interlocutory application. Questioning the same, this civil revision petition has been filed.

3.Heard the learned counsel on either side.

4.It is seen that the report file by the Advocate Commissioner and the plan annexed to the report are not in consonance with each other. Therefore, this Court is of the view that the order impugned in the civil revision petition is liable to be set aside and the civil revision petition is liable to be allowed.



5. The Court below is directed to re-issue warrant to the very same Advocate Commissioner. This Civil Revision Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

The Principal District Munsif, Kuzhithurai

+1 CC To MR.K.N.THAMPI, Advocate SR. NO. 88215

+1 CC To MR.R.NANDAKUMAR, Advocate SR. NO. 88335

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