

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(PD).No.1541 of 2015
and M.P.No.1 of 2015

1.Muniappan
2.Bannari
3.Raju @ Nagaraj
4.Ayyammal

.. Petitioners

vs.

1.Arumugam
2.Natarajan

.. Respondents

Prayer.: Civil Revision petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 09.01.2015 made in I.A.No.337 of 2008 in O.S.No.142 of 2007 on the file of the District Munsif Court, Sathyamangalam.

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For Petitioners : Mr.N.Manokaran

For Respondents : Mr.V.P.Karthikeyan

ORDER

The petitioners are the plaintiffs in O.S.No.142 of 2007. The

petitioners are aggrieved by the impugned fair and decretal order dated 09.01.2015, in I.A.No.337 of 2008 in O.S.No.142 of 2007 on the file of the District Munsif Court, Sathyamangalam.

2. By the impugned order, an Advocate Commissioner has been appointed to give a report. Earlier the Advocate Commissioner visited the property and gave a report pursuant to which the suit was decreed on 23.12.2010.

3. Aggrieved by the Judgment and Decree dated 28.11.2011, the respondents herein filed A.S.No.10 of 2011. The Appellate Court by its order came to the conclusion that the real dispute has not been decided in the suit and therefore remitted the case back with a direction to the Court to re-appoint the same Advocate Commissioner to survey the property with a help of document and surveyor and to give his report.

4. The Advocate Commissioner therefore requested for original documents of the suit property which were not furnished. Therefore, based on the photo copy of the documents, the Advocate Commissioner proceeded to visit the suit schedule property to give his report. However, the respondents objected. Therefore the Court below came to the conclusion that both the parties were not interested to prosecute the application and has therefore closed the application. The petitioners have filed the present civil revision

petition.

5. Thereafter, the Advocate Commissioner filed a memo on 09.01.2015 and stated that he was unable to measure the suit property and therefore requested for originals for all the documents. The Court however declined the same.

6. I have considered the arguments of the learned counsel for both sides.

7. Originally the petitioners have filed O.S.No.142 of 2007 and the same was decreed. Against which, the respondents filed A.S.No.10 of 2011 and the said appeal was allowed on 28.11.2011 in which it was observed that the Advocate Commissioner has to measure the property with the help of the surveyor. The learned Advocate commissioner thereafter proceeded to execute the warrant issued by the Court. However, he was unable to execute the warrant. Therefore, the Advocate Commissioner filed a memo dated 09.01.2015 stating that the petitioners did not co-operate and he also filed another memo stating that the original documents be given to him by the Court for measuring the property.

8. Since the case was remanded back by the Appellate Court by its order

of the view that to meet the ends of justice, the learned District Munsif Court, Sathyamangalam may furnish certified copies of the relevant documents to the

C.SARAVANAN,

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learned Advocate Commissioner on appropriate application/memo to give a report with the help of a surveyor.

9. The learned District Munsif Court may therefore furnish necessary documents to the Advocate Commissioner for latter to give a report within a period of one month thereafter. The Court shall thereafter proceed to pass a final Judgment and Decree after conducting the trial within a period of nine months thereafter.

10. The present Civil Revision Petition is disposed with the above observation. No cost. Consequently, connected miscellaneous petition is closed.

08.07.2019

Index :Yes/No

Internet :Yes/No

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To

The District Munif Court,

Sathyamangalam.

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