

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM

THE HONOURABLE MR. JUSTICE C. SARAVANAN

C.R.P. (PD).No.1946 of 2014
and M.P. No.1 of 2014

Premkumar Chellaiah

... Petitioner

Vs.

1.J.Girishankar

2.The Commissioner,
Pallavaram Municipality,
New Colony, Chrompet,
Chennai - 24

3.The Member Secretary,
CMDA, Thalamuthu Nataraj Maaligai,
Egmore, Chennai - 8

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition in I.A.No.1538 of 2013 in O.S.No.946 of 2012 pending on the file of the Additional District Munsif Court at Alandur and set aside the order dated 17.12.2013.

For Petitioner : Mr.T.Easwaradhas
For R1 : Mr.P.B.Ramanujam
For R2 & R3 : No appearance

ORDER

The petitioner has filed the present Civil Revision Petition against the order and decretal order in I.A.No.1538 of 2013 in O.S.No.946 of 2012 dated 17.12.2013 on the file of the Additional District Munsif Court, Alandur

under Order 26 Rule (9) and r/w Section 151 of C.P.C., for appointment of an Advocate Commissioner to inspect the suit schedule 'A' and 'B' properties and to measure the same (to note down the physical features with measurements of the same), and to take photographs and to file the report with plan in respect of the suit schedule properties.

3. In this proceedings before the lower Court, the counsel for the second respondent and Government Pleader have also given no objection for allowing the petition.

4. The petitioner is now agitating the petition on the ground that the said exercise is only with a view to gather evidence and therefore the lower Court erred in allowing the interlocutory application.

5. The interlocutory application itself has been filed only to appoint an Advocate Commissioner to inspect the suit 'A' and 'B' schedule properties and to note down the physical features with measurements of the same and to take photographs and to file the report with plan for proper adjudication which was allowed by lower Court.

6. The learned counsel for the petitioner submits that the Advocate

Commissioner is incompetent to give a report on the measurements and therefore submits that the Court below erred in allowing the application.

7. If the petitioner is aggrieved by the report of the Advocate Commissioner, the petitioner can file his objection and submit the Advocate Commissioner to cross-examination.

8. After all the report of the Advocate Commissioner by itself will not determine the dispute one way or the other. It will be merely a piece of evidence and aid the Court to decide the dispute.

9. I also do not find any merits in the arguments made by the learned counsel for the petitioner. The Advocate Commissioner may however take the assistance of the licenced surveyor of land and give a detailed report. On such report, the Court shall proceed further.

10. It is made clear that the lower Court shall give adequate opportunity to the petitioner to file his objections to the Advocate Commissioner's report. The petitioner may raise such objections to the Advocate Commissioner's that are available in law.

C. SARAVANAN, J.

arb/kkd

11. Consequently, the present civil revision petition is dismissed as not maintainable. Since the suit is of the year 2012, the Additional District Munsif Court, Alandur is directed to complete the trial and pass judgment and decree within a period of nine months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is also closed.

08.04.2019

Index : Yes/No
Internet : Yes/No
arb/ebsi

To

The Additional District Munsif Court,
Alandur.

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