

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. No. 3509 of 2019
and
C.M.P. No. 23034 of 2019

S. Palayam

... Petitioner

-Vs-

V. Murugasen

... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A. No. 778 of 2018 in O.S. No. 237 of 2016 dated 24.06.2019 on the file of the District Munsif Court, Chengalpattu.

For Petitioner : Mr. R. Narendran

For Respondent : Mr. K. V. Babu

ORDER

This Civil Revision Petition has been filed against the fair and decretal order made in I.A. No. 778 of 2018 in O.S. No. 237 of 2016 on the file of the District Munsif Court, Chengalpattu, by order dated 24.06.2019.

2. Before the trial Court, the respondent / plaintiff filed a suit for bare injunction against the revision petitioner / defendant in respect of 0.46 cents of lands at Survey. No. 83/5 as per patta No. 2523, at Thaiyur Village, Thiruporur Taluk, Kancheepuram District.

3. In the said suit, the plaintiff filed an application in I.A.No. 778 of 2018 under Order XXVI Rule 9 of the Civil Procedure Code to appoint an Advocate Commissioner to measure the property with a help of Head Surveyor with revenue records and file a report.

4. Considering the said plea made on behalf of the plaintiff in the said IA, after hearing both sides, the learned Judge through the impugned order has allowed the said IA, by thus appointing an Advocate Commissioner as prayed for. Aggrieved over the same, the defendant has filed the present revision petition with the aforesaid prayer.

5. Heard Mr. R. Narendren, learned counsel appearing for the revision petitioner and Mr. K.V. Babu, learned counsel appearing for the respondent. After having heard both the learned counsel, this Court is of the view that the present issue which has been cropped up in the present application and has been decided by the trial Court, through the impugned order, can be given a quietus if a modification to the said order is given.

6. Accordingly, both parties agreed through the learned respective counsel that, the property in question i.e., 0.46 cents at S. No. 83/5 at the aforesaid village referred to above in the schedule of the plaint shall be surveyed with the help of the Taluk Surveyor / Firka Surveyor in the presence of both the plaintiff as well as the defendant with their respective counsel and the four boundaries of the said land shall be identified and after identification, boundary stones can be laid, based on which, the sketch can be prepared by the Taluk Surveyor / Firka Surveyor as the case may be and the same can be filed as official documents before the Court below in the suit, which can be accepted as Court documents, based on which, the trial Court can proceed with the suit.

7. In order to complete the aforesaid task, the revision petitioner as well as the respondent shall produce the copy of this order to the concerned Tahsildar. On receipt of this order and on receipt of the necessary fee to be paid in this regard from the revision petitioner and the respondent, the concerned Tahsildar shall name the Taluk Surveyor / Firka Surveyor as the case may be depending upon the availability, for the completion of the said task. In this regard, a date can be fixed by the Surveyor to be appointed in this regard, which shall be intimated to both the parties or their counsel. On that day, the survey directed above shall be undertaken and thereafter within a period of one week, the document as indicated above shall be filed by the Surveyor to the Court below. The aforesaid exercises shall be completed and the necessary report also to be filed within a period of two months from the date of receipt of a copy of this order.

8. With these directions, the impugned order is stand modified accordingly the Civil Revision Petition is disposed. Consequently connected Miscellaneous Petition is also closed. No costs.

9. Registry is directed to mark a copy of this order to the Tahsildar, Thiruporur Taluk, Chengalpattu / former Kancheepuram District.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vji

To

1.The District Munsif Court,
Chengalpattu.

2. The Tahsildar, Thiruporur Taluk, Chengalpattu
former Kancheepuram

+1cc to Mr.R. Narendran, Advocate SR.No.94949

+1cc to Mr.K. V. Babu, Advocate SR.No.94789

C.R.P. No. 3509 of 2019
and

सत्यमेव जयते C.M.P. No. 23034 of 2019

CP (CO)
GMY (04/02/2020)

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