



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
(Civil Appellate Jurisdiction)

Thursday, the Twenty Fifth day of July Two Thousand Nineteen
PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
CRP (MD) . No.2164 of 2010

WEB COPY

SELVARAJ

... Petitioner

Vs

PONNUTHAI (DIED)

1 NAGARETHINAM

2 MATHIVANAN

3 AYYAPPAN

4 AGAYARKANNI

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, Praying this Hon'ble Court against the order dated 05.08.2010 passed in E.P.No.343 of 2008 in O.S.No.599 of 1988 on the file of the 1st Additional District Munsif, Trichirappalli.

ORDER:

Civil Revision Petition is coming on for hearing on this day, upon perusing the affidavit and the material papers filed, and upon hearing the arguments of MR.N.C.ASHOK KUMAR, Advocate for the Petitioner and of MR.J.ANANDHA VALLI, Advocate for the Respondents, this Court made the following order:-

This Civil Revision Petition is filed challenging the order of arrest for violating a decree for injunction. From the nature of the case pleaded by the parties before the lower Court, this Court is of the view that an Advocate Commissioner is necessary to inspect the property in dispute and to find out whether the wall, which has now been constructed is by replacing the old mud wall, which was in existence at the time of filing the suit.

2.The question whether the petitioner has constructed a new wall encroaching into the property of defendant can be identified by the Advocate Commissioner on ground. It is open to the revision petitioner/respondent to file memo of instructions to the Advocate Commissioner, so as to enable the Advocate Commissioner to point out the physical features and measure, so that the Commissioner's report submitted before the Court will be useful to find out whether the version of the revision petitioner or the respondent is



3.Hence, this Court appoint Mr.A.Mohamed Haneef, 103.Lawyer Chamber, Madurai, (Cell No.9842494977) as Advocate Commissioner.

4.The learned Advocate Commissioner is directed to inspect the property in question and measure the property with the aid of qualified surveyor as per the documents and to note down all the physical features, if necessary, by digging the soil and to mention in his report whether the construction, which is now in existence is in the same place, where the wall was in existence at the time of suit. The Commissioner has to find out whether the construction is put up in a difference place or whether any portion of the property of respondent in the revision petition is encroached upon by the revision petitioner. The Commissioner is permitted to get the assistance of an experienced Engineer and to note down all facts and details relevant for the purpose of adjudicating the revision petition.

5.The learned Advocate Commissioner shall make the inspection within a short time preferably within a period of two weeks. The learned counsel for the petitioner shall pay the initial remuneration of Rs.25,000/- (Rupees Twenty Five Thousand only) to the learned Advocate Commissioner.

6.Post the matter on 13.08.2019, for filing report along with plan by the learned Advocate Commissioner.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

TO

The 1st Additional District Munsif, Trichirappalli.

COPY TO

Mr.A.Mohamed Haneef,
103.Lawyer Chamber, Madurai,
(Cell No.9842494977)

ORDER DATED : 25/07/2019

HEARING DATE : 13/08/2019

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ORDER

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Giving direction and etc.
as stated within.