

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.4401 of 2013

and

MP.No.1 of 2013

1.Natesan

2.Raju @ Radhskrishnan ... Petitioners/Plaintiffs

Versus

1.Senthamarai(died)

2.Block Development Officer (K.V.V.T. Scheme)
Kanchipuram Panchayat Union,
Sirukavakipakkam.

3.The District Collector,
Kanchipuram District,
Kanchipuram.

4.M.Tamil Selvi ...Respondents/Defendants

[Fourth respondent brought on record as legal representative of the deceased first respondent viz., Senthamarai vide Court order dated 26.06.2019 and 05.07.2019 made in CRP(PD)No.4401 of 2013 as per Memo dated 26.06.2019 (Present in Court) are recorded]

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No. 686 of 2012 in O.S.No 530 of 2010, by the learned Additional District Munsif Court, Kancheepuram, dated 28.01.2013.

For Petitioners : Mr.P.Mani
For R1 : Died
For R2 & R3 : Mr.S.Jaganathan
Government Advocate
For R4 : No appearance

ORDER

This Civil Revision Petition has been filed against the order passed by the learned Additional District Munsif Court, Kancheepuram, in I.A.No. 686 of 2012 in O.S.No 530 of 2010, dated 28.01.2013.

2 The plaintiffs in the suit O.S.No.530 of 2010 are the revision petitioners herein.

3 The revision petitioners have filed the suit in O.S.No.530 of 2010 for declaration of title and for permanent injunction restraining the second and third defendants from interfering with peaceful possession and enjoyment of the suit property. Along with plaint, the revision petitioners have also filed rough sketch indicating the suit property as ABCD and PQRS. In order to identify and to substantiate the claim, the revision petitioners/plaintiffs have filed I.A.No.686 of 2012 for appointment of Advocate Commissioner to find

out the physical features and the linear measurement in respect of the suit property with the help of Taluk Surveyor and the Revenue Officials. Accordingly, he has impleaded respondents 2 and 3. The learned counsel appeared for the respondents 2 and 3 therein has made no objection for the said petition before the Trial Court. The first respondent has filed counter stating that under the guise of appointment of Advocate Commissioner, the plaintiffs have indulged in collection of evidence. The learned District Munsif Court, Kanchipuram, has observed that since the suit property was not disputed, it may collect the evidence and accordingly, dismissed the application. Hence, the Civil Revision Petition.

4 Heard the learned counsel for the petitioner and Mr.S.Jaganathan, learned Government Advocate for the respondents 2 & 3. Fourth respondent served, none appeared.

5 In view of the stand taken before the Trial Court and also taking note of the fact that the prayer for the appointment of Advocate Commissioner is clear to the effect that to find out a layout of the ABCD and PQRS as mentioned in the rough sketch. And taking into consideration the rival contentions of the petitioners and respondents

herein, I find that it is absolutely necessary to get a report of Advocate Commissioner for adjudication.

6 In this view of the matter, the order passed in I.A.No. 686 of 2012 is set aside and the Trial Court is directed to appoint Advocate Commissioner within a period of three weeks from the date of receipt of a copy of the order with a specific direction to the Advocate Commissioner to file a report within a period of eight weeks and on such report being filed, the Trial Court is further directed to complete the Trial of the suit within a period of twelve weeks thereafter.

7 With the above directions, the Civil Revision Petition stands allowed and the order passed by the learned Additional District Munsif Court, Kancheepuram, in I.A.No. 686 of 2012 in O.S.No 530 of 2010, dated 28.01.2013 is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order:Yes/No
To
The District Munsif Cum Judicial Magistrate Court,
Omalur.

RMT.TEEKAA RAMAN., J.

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