

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 06.10.2020]

[ORDERS PRONOUNCED ON : 03.11.2020]

CORAM :

THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

C.R.P. [PD] No.1776 of 2020

and

C.M.P.No.10920 of 2020

1. M.Mohan

2. M.Murali

... Petitioners/Defendants

.. Vs ..

P.Duraisami Naidu

... Respondent/Plaintiff

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 08.02.2018 made in I.A.No.1069 of 2017 in O.S.No.225 of 2011 on the file of the learned Principal District Munsif at Poonamallee.

For Petitioners : Mr.S.Sai Shankar

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 08.02.2018 passed by the learned Principal District Munsif at Poonamallee, in I.A.No.1069 of 2017 in O.S.No.225 of 2011.

2. The defendants are the petitioners herein. The respondent herein/plaintiff has filed a suit in O.S.No.225 of 2011 for declaration of title and for permanent injunction in respect of the suit property. The defendants have filed written statement. Pending the above suit, the plaintiff has filed an application in I.A.No.896 of 2016 for appointment of an Advocate Commissioner. The said application was allowed by the trial Court and Advocate Commissioner was also appointed. The Advocate Commissioner has inspected the suit property with the help of Taluk Surveyor and filed her report on 06.09.2017. Objection to the Advocate Commissioner's report was also filed by the defendants.

3. At this juncture, it appears that the defendants have filed an application in I.A.No.1069 of 2017 to reissue the warrant to the very same Advocate Commissioner directing to take the paimash number as a criteria for taking the physical features and also to measure the suit land from West to East. The said application was dismissed by the learned trial Judge and hence, the present Civil Revision Petition has been filed before this Court.

4. Learned counsel for the petitioners would contend that paimash number and relevant resurvey number are essential for determination of the lis between the parties and the lie of the property has to be measured by the Advocate Commissioner only from East to West and not from West to East. The Advocate Commissioner has measured the suit property from Western side but it should have been from the Eastern side.

5. This Court has given its anxious consideration to the said contention of the learned counsel for the petitioners. The schedule of the

property mentioned in the plaint and the averments in the written statement and also the schedule of the property mentioned in I.A.No.896 of 2016 are referred only the survey number and not the paimash number and hence, the contention of the learned counsel for the petitioners that the Advocate Commissioner has to reinspect the suit property with regard to paimash number appears to be vague and unimaginable.

6. Furthermore, with the help of a Taluk Surveyor the Advocate Commissioner has inspected the suit property from Western side. According to the petitioner, it should have been from the Eastern side. After going through the Advocate Commissioner's report and the objection to the Advocate Commissioner's report filed by the defendants, I find that the trial Court has rightly rejected the application in I.A.No.1069 of 2017. It is only to mix up the facts and also to confuse the pleadings. Neither in the plaint nor in the written statement, there was no mentioning about the paimash number for determining the correlation of the resurvey number.

7. In the plaint, written statement, amended plaint and in the interlocutory application filed for appointment of an Advocate Commissioner, the suit property was specifically referred with respect to resurvey number only and hence, the learned Principal District Munsif, Poonamallee, has rightly negatived both the contentions of the petitioners herein/defendants and dismissed the application in I.A.No.1069 of 2017. The same does not warrant any interference by this Court and hence, the Civil Revision Petition is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

03.11.2020

Internet :Yes
Jrl

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To

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The Principal District Munsif,
Poonamallee.

RMT.TEEKAA RAMAN, J.

Jrl



**Order made in
C.R.P. [PD] No.1776 of 2020**

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