

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 30.11.2020

PRONOUNCED ON : 08.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.NO.1833 OF 2019

AND

CMP.NO.12075 OF 2019

1. Chinnappan
2. Minor Harsha Lakshmi,
Rep.by her guardian and mother
R.Uma Magesh. Petitioners

Versus

1.Vijayalakshmi
2.Rajendran @ Naina Respondents

Prayer:-

Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.04.2019 made in I.A.No.826 of 2018 in O.S.No.130 of 2014 passed by the learned District Munsif Judge, Palladam.

For Petitioners : Mr.N.Manokaran
For Respondents : Mr.K.C.Karl Marx

ORDER

The plaintiffs are the revision petitioners herein.

2.The revision petitioners/plaintiffs filed the suit in O.S. No. 130 of 2014 before the learned District Munsif Court, Palladam, for the relief of permanent injunction against the defendants in respect of "B" Schedule property, which was forming the part of "A" Schedule property. In short, B-Schedule property is the Compound Wall on the North/South direction of 30 feet and 5 ½ feet height and half feet breadth.

3.The defendants entered appearance and filed a written statement by alleging that the second defendant is the absolute owner of the B-Schedule property and the plaintiffs had encroached 40 feet length out of 60 feet length and ½ feet

breadth over the B-Schedule property and therefore, the plaintiffs have no right and title of the suit property.

4. When the matter was at the trial stage, the defendant filed an I.A.No.826 of 2018, for appointment of Advocate Commissioner. After enquiry the same was allowed by the trial court. Hence, the Civil Revision Petition filed by the plaintiffs.

5. Heard both sides and perused the materials available on record.

6. It is an admitted case that the suit was for permanent injunction in respect of the Schedule properties A & B. It is the specific plea of the defendants in the written statement that B-Schedule property absolutely belongs to the defendants and the plaintiffs encroached upon the defendants land and put up a compound wall. Hence, in order to have a proper decree, the defendant filed an I.A.No.826 of 2018, for appointment of the Advocate Commissioner to note down the physical feature of the suit property with the help of the Taluk Surveyor and with Photographer with respect to the sale deeds of the both the parties.

7. Taking into consideration, the issue involved in the main suit and pleading filed by the defendants the appointment of Advocate Commissioner by the Trial Court cannot be found fault with. When the plaintiffs sought relief of permanent injunction, the decree should be satisfied to that extent and in order to decide the same, appointment of the Advocate Commissioner to note down the physical feature is required and sale deeds of both sides are essential. Hence, in this matter, the order passed by the Trial Court does not suffer from any irregularity in procedure or illegality. Accordingly, the Civil revision petition is dismissed. The interim order already granted in CMP.No.12075 of 2019 stands vacated and the same is hereby closed. No costs.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

klt

To

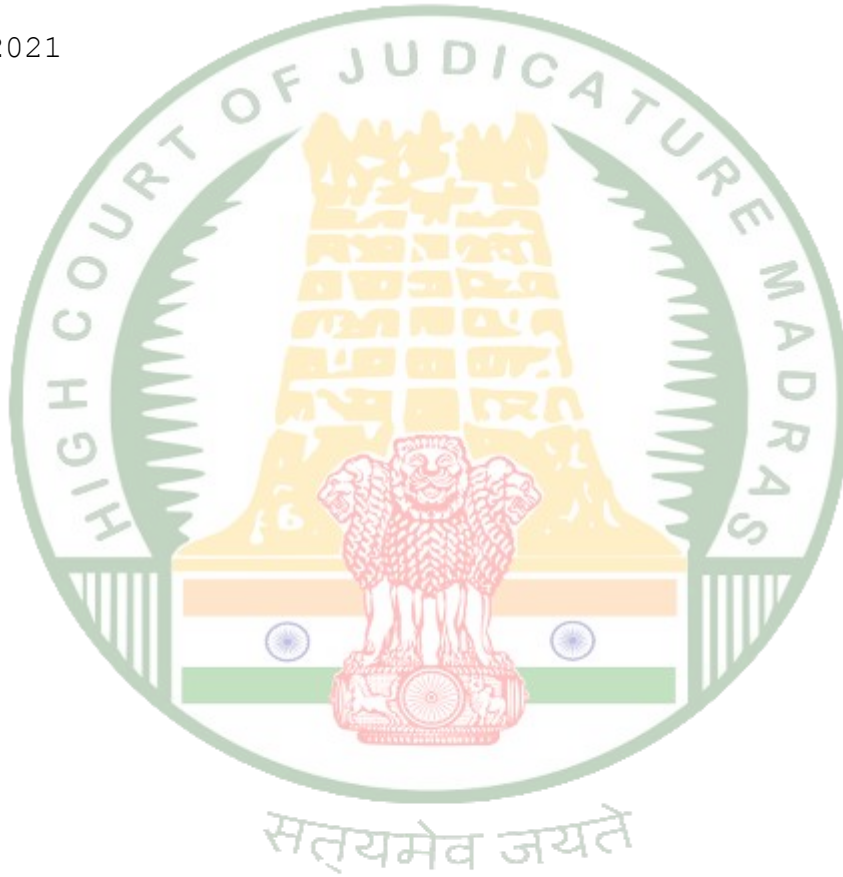
The District Munsif,
Palladam.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.39490

+1cc to Mr.N.Manokaran, Advocate, S.R.No.38528

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VD (CO)
CS/18/01/2021



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