

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD)No.1945 of 2020

CMP.No.11983 of 2020

M.Dhanraj

Petitioner

Vs

N.Gnanasekar

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order, dated 20.02.2020, in IA.No.4 of 2020 in OS.No.22 of 2019, passed by the I Additional District Court-I, Tiruvallur.

For Petitioner : Mr.N.Ganesh

ORDER

1. This Civil Revision Petition has been filed, to set aside the order, dated 20.02.2020 in IA.No.4 of 2020 in OS.No.22 of 2019, passed by the I Additional District Court-I, Tiruvallur.
2. The Defendant is the Petitioner herein. The Respondent/ Plaintiff has filed OS.No.22 of 2009, before the I Additional District Judge, Tiruvallur, initially for the relief of permanent injunction in respect of A-Schedule property. Pending the suit, there was an application in IA.No.777 of 2013 for appointment of an Advocate Commissioner and an Advocate Commissioner was appointed and a report was filed. During the trial, certain answers have been elicited and the Plaintiff has sought for amendment of the prayer in the suit into one for declaration of title and for recovery of possession of B-

Schedule of property, forming part of the A-Schedule property. Thereafter, the Plaintiff has filed IA.No.50 of 2019 for appointment of an advocate commissioner to note down the physical features of the B-schedule property for effective adjudication. By order dated, 20.02.2020, the Trial Court, has allowed the application, however, ordered for reissuance of warrant to the very same Advocate Commissioner, who is appointed in IA.No.777 of 2013. Hence, this Civil Revision Petition has been filed.

3. This court heard the learned counsel for the Petitioner.
4. The learned counsel for the Petitioner has submitted that since there was already an Advocate Commissioner in respect of the property and the measurement is also admitted, reissue of warrant to the very same Advocate Commissioner does not arise.
5. Admittedly, the Advocate Commissioner was originally appointed in IA.No.777 of 2013 to note down the physical features when the suit is one for the relief of permanent injunction. Subsequently, there was amendment of the pleadings and prayer and the schedule of the property. The amendment of the prayer is for declaration of title and for recovery of possession of B-Schedule of Property, which is said to have been encroached by the defendant. Hence, for effective adjudication and for drafting the decree as to the extent of encroachment, as per the pleadings, which is B-schedule property, reissuance of warrant to the very same Advocate Commissioner is just and proper. Hence, I do not find any reason to interfere with the impugned order.

6. In view of the above, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected MP is closed.

02.11.2020

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

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To

1. TheAdditional District Court-I, Tiruvallur

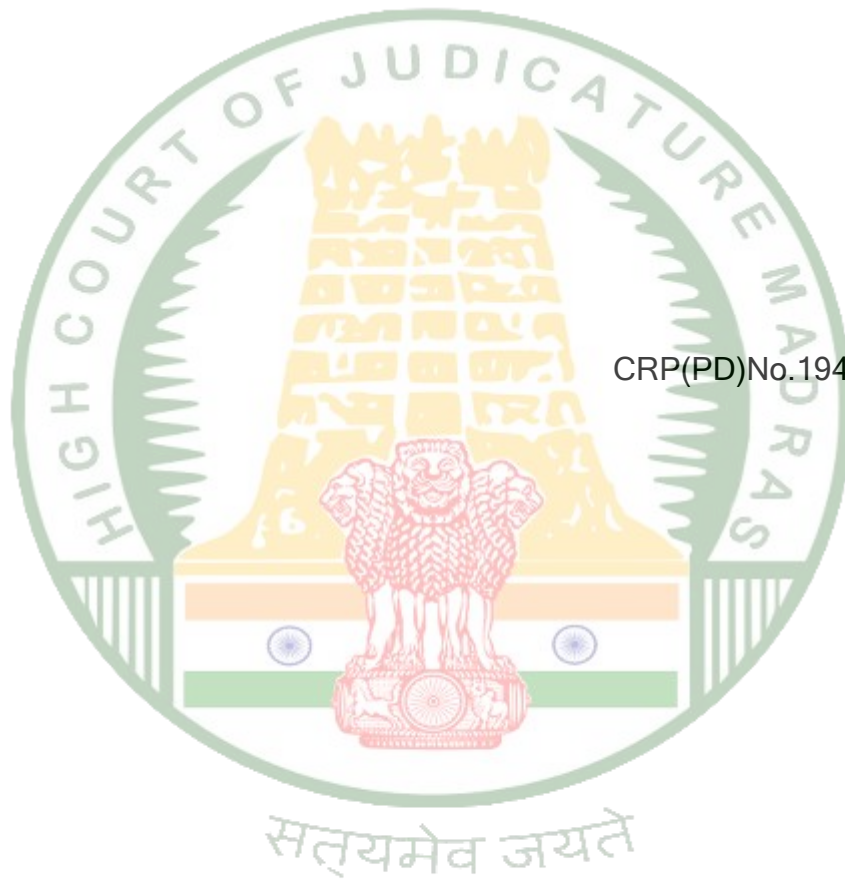


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CRP(PD)No.1945 of 2020

RMT.TEEKAA RAMAN, J.

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CRP(PD)No.1945 of 2020

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