

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (PD) No.209 of 2014
and M.P.No.1 of 2014

Chinnan @ Semba Gounder

..Petitioner

Vs

1.T.S.Ganesan

2.Muthukumarasamy

3.Thandapani

4.Elavarasan

.....respondents

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and final order dated 06.12.2013 in I.A.No.204 of 2013 in O.S.No.382 of 2011 on the file of II Additional District Munsif Court, Bhavani and to set aside the same.

For Petitioner : Mr.Parthikannan for Mr.A.K.Kumaraswamy
For Respondents : Mr.Revathy for Mr.R.Nelliyappan for R3

ORDER

The petitioner has filed a suit against the respondents in

OS.No.382 of 2011 on the file of II Additional District Munsif Court, Bhavani. During the pendency of the suit, the petitioner also filed an application in I.A.No.204 of 2013 for appointment of Advocate Commissioner to note down the physical features of the suit property. That petition was dismissed by the trial Court after hearing both the parties. Aggrieved by the said order passed by the trial Court in IA.No.204 of 2013 dated 06.12.2013, the petitioner has preferred the present revision petition before this Court. The main suit is pending from the year 2011 and the present Civil Revision Petition has been pending from the year 2014 in regard to the issue of appointment of the Advocate-Commissioner.

2. On a reading of the facts, it is seen that the petitioner filed a suit against the respondents for declaration and injunction in the year 2011. Subsequently, after filing the suit, an Interlocutory Application in IA No.204 of 2013 was filed seeking to appoint Advocate Commissioner to note down the physical features of the suit property. The trial Court has considered elaborately and held that since the suit is for declaration and injunction, the suit has to be decided only by oral and documentary evidence and as such, it has come to the conclusion that the Advocate Commissioner need not be appointed to collect the evidence and accordingly dismissed the application.

3. On a careful reading of the materials, this Court does not find any perversity in the order passed by the trial Court. The petitioner has filed the suit for declaration and injunction and it is necessary that he has to establish his title and possession by adducing both oral and documentary evidence. Therefore, as rightly observed by the Court below that the Advocate Commissioner need not be appointed to collect evidence and therefore, dismissed the same.

4. Since the suit is pending from the year 2011, the trial Court is directed to dispose of the suit in O.S.No.382 of 2011 within a period of six months from the date of receipt of a copy of this order.

5. This Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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To

1. The II Additional District Munsif Court, Bhavani
3. The Section Officer, V.R. Section, High Court, Madras

P.VELMURUGAN,J.

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