

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27..01..2020

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.4514 of 2017

&

C.M.P.No.21295 of 2017

Kaliammal ... Petitioner/ Respondent/
Plaintiff

-Versus-

C.Gopal ... Respondent/Petitioner/
Defendant

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 29.07.2013 made in I.A.No.613 of 2013 in O.S.No.290 of 2008 by the learned Additional District Munsif, Tiruchengode, Namakkal District.

For Petitioner : Mr.N.Manokaran

ORDER

This civil revision petition is directed against the order passed by the learned Addl. District Munsif, Tiruchengode, Namakkal District in I.A.No.613 of 2013 in O.S.No.290 of 2008, appointing an Advocate Commissioner to note down the physical features of the suit schedule property.

2. The petitioner is the plaintiff in the said suit. The above said suit has been filed for a decree of declaration declaring the title of the plaintiff in respect of the suit property. and for permanent injunction restraining the defendant his men, servants and agents from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property. Pending suit, the respondent/defendant filed an application under revision seeking appointment of Advocate Commissioner for the purpose of measuring the suit schedule property with the help of a surveyor and to note down the physical features thereon and also to locate the boundary line. The court below allowed the application by impugned order and thereby appointed an Advocate Commissioner for the purpose of measuring the property in S.No.224/1D and S.No.224/1C with the help of a surveyor and also note down the physical features of

the suit schedule property. Subsequently, the petitioner filed another application in I.A.No.979 of 2013 seeking to modify the warrant issued to the Advocate Commissioner and direct him to locate the suit schedule property and measure the same drawn to scales with the assistance of a qualified surveyor. That application was dismissed by the court below on the ground that the scope of warrant of commission cannot be enhanced and the property could not be measured as per map submitted by the petitioner. Challenging the same, the petitioner filed a revision before this court in CRP No.77 of 2014. After notice to the other side, this court by order dated 24.02.2017 dismissed the revision petition by holding that an Advocate Commissioner had already been appointed and he had also executed the warrant and at the time of filing the report, the application came to be filed seeking to enhance the warrant of commission. Thereafter, the present revision has been filed challenging the very appointment of Advocate Commissioner.

3. This revision petition is coming up for admission. I have heard the learned counsel for the petitioner and also perused the records carefully.

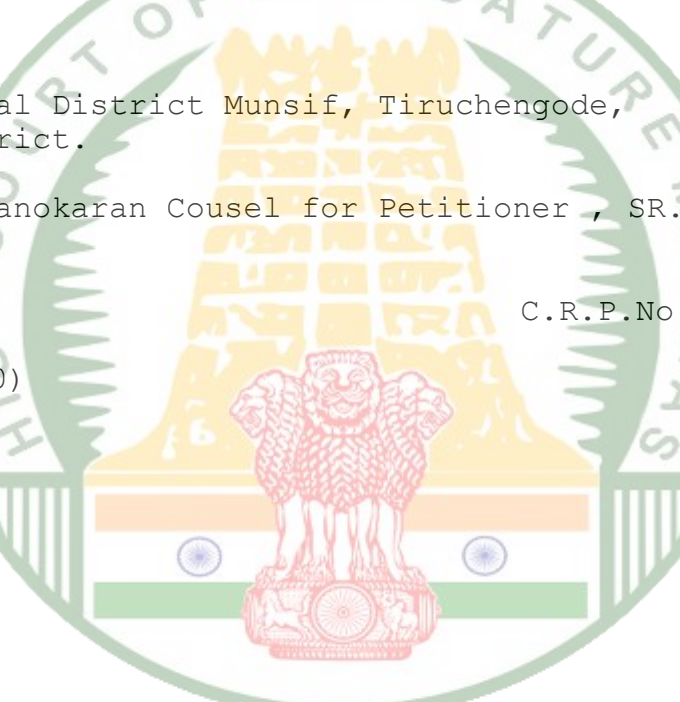
4. Originally, at the instance of the respondent, the court below had appointed an Advocate Commissioner by its order dated 29.07.2013. At that time, the petitioner did not choose to challenge the order of appointment of Advocate Commissioner and he wanted to enhance the scope of the warrant of commission. His request was, however, rejected by the court below, which was in fact confirmed by this court in the earlier revision filed by the petitioner in CRP No.77 of 2014 by order dated 24.02.2017. Only thereafter, the petitioner has come forward with the instant revision petition challenging the very appointment of the Advocate Commissioner for the purpose of measuring the suit schedule property with the help of a surveyor noting down the physical features thereon. If at all the petitioner has got any grievance over appointment of Advocate Commissioner, he should have challenged the order dated 29.07.2013 immediately. But, he did not do so. He had in fact wanted only to enhance the scope of warrant of commission by giving a direction to measure the suit schedule property in accordance with a map submitted by him with the help of a qualified surveyor. After the application came to be dismissed, the petitioner has chosen to file the instant revision petition on 04.12.2017, that too, after lapse of almost 4 years months, challenging the very appointment of Advocate Commissioner. It was nothing but an after thought. The court below has rightly dismissed the application by impugned order. This court does not find any illegality or irregularity warranting interference at the hands of this court and the revision fails.

Additional District Munsif, Tiruchengode,
District.

.N.Manokaran Counsel for Petitioner , SR. No.

C.R.P.No.4514

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Assistant Registrar (CS-VI)

Sub Assistant Registrar

To

+1cc to Mr.N.Manokaran Cousel for Petitioner , SR. No. 5858

RLD (CO)
RMP (20/07/2020)

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