



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on :04.09.2020

Pronounced on: 09.12.2020

CORAM

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

C.R.P (MD) No.1323 of 2012 (PD)

WEB COPY

P.Ramasamy : Petitioner/Petitioner/Plaintiff

Vs.

1.M.Raju
2.R.Kalyani : Respondents/Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Section 227 of Civil Procedure Code, against the fair and decreetal order dated 8.7.2011 made in I.A.No.410 of 2011 in O.S.No.178 of 2011 on the file of the Additional District Munsif, Karur.

For Petitioner : Mr.I.Velpradeep

ORDER

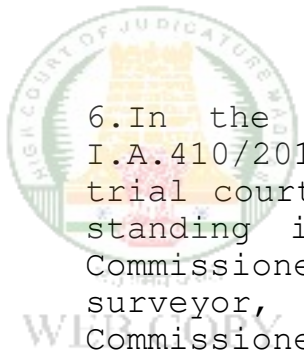
The plaintiff in O.S.178/2011 on the file of District Munsiff Court, Karur, has approached this Court with this revision challenging an order passed in I.A. 410/2011, dismissing his application for appointing a commission for local inspection of the suit property under Order 26 Rule 9 CPC.

2.The plaintiff has laid the suit for declaration of his title over 'C'Schedule property in the plaint, which is described as a wall separating plaintiff's property and the property of the defendants on the south. According to the plaintiff he has purchased A and B schedule properties from two brothers and put up a new structure and the wall described in the 'C' schedule is constructed exclusively within the property he had purchased. Hence he has filed an application to appoint a Commission. This was opposed by the defendant/respondent.

3.By a cryptic order the trial court has dismissed the petition, on the ground that the plaintiff can prove the title to his property through documentary evidence.

4.Heard the learned counsel for the revision petitioner.

5.This revision requires to be allowed. The title document at the best may help the plaintiff prove his title to A and B schedule properties, but cannot help in ascertaining where the wall in the C-schedule is situate. This Court is unable to appreciate the approach of the learned trial judge. He ought to have been far more realistic and pragmatic in dealing with issues such as these.



6.In the result, this revision is allowed, and the order in I.A.410/2011, dated 08.07.2011 in O.S.178 of 2011 is set aside. The trial court is now required to appoint an Advocate, with reasonable standing in the civil side, and regular to the Court as the Commissioner, to be assisted by a Taluk surveyor, or a Town surveyor, as the case may be on such remuneration. If the Commissioner to be appointed does not get the co-operation from the Surveyor, he may forthwith inform the trial judge, who in turn shall bring it to the notice of the Principal District Judge, Karur. The learned Principal District Judge, then may address necessary communication to the higher officials in the Revenue Department about it, or may bring it to the notice their notice during the monthly Monitoring Committee Meeting, whichever comes early. Since the suit is pending since 2011, the trial Court is directed to dispose of the suit within a period of six month, and at any rate not later than 30-06-2021. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To

1.The Additional District Munsif Court, Karur.

2.The Section Officer, (2Copies)

V.R.Section, Madurai Bench of Madras High Court,
Madurai.

C.R.P (MD) No.1323 of 2012 (PD)
09.12.2020

SS (CO)

KB (04.01.2021) 2P 4C