



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

CRP (PD) (MD) No.567 of 2020

&CMP(MD) 3505 of 2020

WEB COPY

P.Kumaran

...Petitioner/Petitioner/
Plaintiff

Vs.

1.M.Panchavarnam
2.R.Sethu Ammal
3.P.Ayyanar
4.M.Nandhagopal
5.Mariappan
6.R.Periyaannan
7.Malaichamy

...Respondents/Respondents/
Defendants

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.2/2019 in O.S.No.234/2019 dated 14.02.2020 on the file of the Subordinate Judge, Manamadurai.

For Petitioner : Mr.M.Ponniah
For Respondents : Mr.Udayakumar

ORDER

This Civil Revision Petition is filed by the revision petitioner challenging an order dated 14.02.2020 passed in I.A.No.2 of 2019 in O.S.No.234 of 2019 before the Subordinate Judge, Manamadurai.

2.The Civil Revision Petitioner/plaintiff had laid the suit for declaration of title and for injunction. According to the plaintiff, he has derived title to the suit property based on a sale deed dated 03.08.2017. The plaintiff's predecessor in title has derived title to the suit property under a sale deed dated 29.08.1985.

3.The defendants in their written statement contended that their predecessor in title has purchased the property on 20.07.1960, that they derived title under a sale deed dated 12.07.1990. It is their further contention that the sale in favour of the predecessor in title of the plaintiff is fraudulent, that the plaintiff does not derive any title to the property.

4.The total extent which the first defendant/respondent herein has purchased is some 66 cents in Sy.No.33/2, whereas, the plaintiff has purchased 9.8 cents in the same Survey Number. It appears that the plots are since sub-divided. Notwithstanding the extent stated in



the official records, it is still not known what is the extent actually available on lie. In this scenario, it is only appropriate that the Commissioner measures the property based on the title documents of both the sale deeds, and provide a Report to facilitate the Court in its endeavour to adjudicate the case.

5.After hearing both parties, this Court finds that there is a need for appointing a Commission in this case. The trial Court is now directed to appoint an Advocate Commissioner, who has a reasonable standing on the civil side, and reasonably regular in his appearance before the Court, on payment of such remuneration as it may deem just and proper . The Court appointed Commissioner will be assisted by either a Taluk Surveyor and in his absence, by a District Surveyor, or such other Surveyor who the District Surveyor nominates. Both the parties are also free to file a memo before the trial Court listing the points that the Commissioner ought to look into. Once the Commissioner is appointed, he is required to file his report within a period of 2 months. If there is any difficulty experienced by the Commissioner in getting the assistance of the Taluk Surveyor, he shall forthwith inform the learned trial Judge, who in turn shall inform the same to the learned Principal District Judge, Sivagangai. The learned Principal District Judge, Sivagangai may take up with the issue during the monthly Monitoring Committee meeting to the higher Revenue Officials. Once, the Commissioner's report is filed, the trial Court shall dispose of the matter within a period of four(4) months thereafter.

6.In the result, the Civil Revision Petition is disposed as above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge, Manamadurai.

C.R.P. (PD) (MD) No.567 of 2020
02.12.2020

MJ(CO)

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