



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

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WEB COPY

THE HON'BLE MR.JUSTICE N.SESHASAYEE

C.R.P(MD) No.1216 of 2019

and

C.M.P(MD)No.6836 of 2019

Arumugapandi

... Petitioner/Petitioner/
Plaintiff

-Vs-

1.Issakiammal
2.Muthulakshmi
3.Umaya Parvathi

... Respondents/Respondents/
Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition and set aside the fair and decreetal order dated 30.11.2018 made in I.A.No.431 of 2018 in O.S.No.12 of 2017 on the file of the District Munsif Court, Tiruchendur.

For Petitioners : Mr.A.Arumugam
For Respondents : No appearance

O R D E R

The Revision Petitioner is the plaintiff in O.S.No.12 of 2017 on the file of the District Munsif Court, Tiruchendur, which he has laid for declaration of his tile and for recovery of possession of plaint 3rd schedule property.

2.The second schedule of property lies to the immediate north of the third schedule of the property. To describe the property, the plaintiff has filed a sketch along with the plaint. In paragraph-8 of the written statement, the defendants have contended that item Nos.2 & 3 as indicated in the rough sketch appended to the plaint do not disclose the real state of affairs, and have denied the way the properties appear in the rough sketch.

3.It is in these circumstances, the plaintiff has filed I.A.No.431 of 2018 for appointment of an Advocate Commissioner. By the impugned order, the learned District Munsif has dismissed the the said Interlocutory Application on the ground that there is no dispute as to the identity of the property.



4.The learned counsel appearing for the revision petitioner took this Court specifically through Paragraph-8 of the written statement, which according to him, necessitates the need for appointing a Commission for local inspection.

5.Though notice was served on the respondents and their name are printed in the cause list, they have chosen not to appear either in person or through a counsel.

6.There indeed appears to be a dispute on where items nos. 2 & 3 of the suit schedule property appear on lie. A Commissioner's Report will always enable the Court, more particularly the appellate Court to appreciate certain vital aspects about the property.

7.This Court is satisfied with the submission of the learned counsel for the revision petitioner. Accordingly, the order dated 30.11.2018 passed in I.A.No.341 of 2013 in O.S.No.12 of 2017, by the District Munsif Court, Tiruchendur is set aside and the Civil Revision Petition is allowed. The learned District Munsif, Tiruchendur is directed to appoint an Advocate, who has a reasonable standing on the civil side, and reasonably regular in his appearance before the Court as the Advocate - Commissioner, on payment of such remuneration as it may deem just and proper . The Court appointed Commissioner will be assisted by either a Taluk Surveyor. Both the parties are also free to file a memo before the trial Court listing the points that the Commissioner ought to look into. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Am

To

The District Munsif,
Tiruchendur.

+1cc to Mr.A.Arumugam, Advocate Sr.No.23420

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