



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.778 of 2020

and C.M.P (MD) No.5219 of 2020

WEB COPY

1.Paulsamy
2.Valarmathi
3.Saravanan

...Petitioners/Respondents 1 to 3/
Defendants 1 to 3

Vs.

1.V.Vijaya ...1st Respondent/Petitioner/Plaintiff
2.R.Chelladurai ...2nd Respondent/4th Respondent/4th Defendant

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair Order and Decree made in I.A.No.43 of 2019 in O.S.No.61 of 2018 dated 23.09.2020 on the file of the District Munsif Court cum Judicial Magistrate Court, Natham.

For Petitioners : Mr.M.Thirunavukkarasu

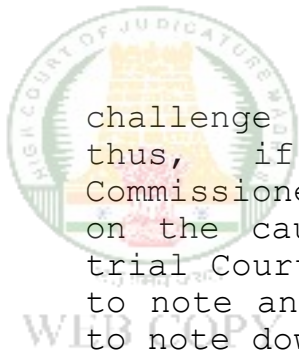
ORDER

The plaintiff has laid the suit for bare injunction based on the sale deed dated 16.11.2012. The plaintiff has moved the trial Court for appointing a Commission in I.A.No.43 of 2019, which was ordered by the learned trial Judge Vide the impugned order dated 23.09.2020. Aggrieved by the same, the defendants are before this Court with the present Civil Revision Petition.

2.Heard the learned counsel for the revision petitioners.

3.The learned counsel for the revision petitioners submitted that the source of title of plaintiff's vendor is patta no.734, a copy of which has been enclosed in the typed-set of papers. The learned counsel further submitted that as per the patta, the plaintiffs' vendor had right only over 035.0 h whereas, in the sale deed, he had transferred a much larger extent of 1443 Sq.ft. Therefore, the Commissioner necessarily has to note the same.

4.This Court needs to record that the trial Judge has certain space in exercising his discretion in the procedural law and unless any impropriety is demonstrated before the Court, this Court may not interfere with the said category. The order which is now under



challenge essentially falls under the said angle. Having stated thus, if the revision petitioners/defendants require the Commissioner to note down any of the points that may have a bearing on the cause of action, they may file necessary memo before the trial Court on the various points that they require the Commissioner to note and the trial Judge may accordingly direct the Commissioner to note down those points.

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

Sd/-

Assistant Registrar (A.S)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg-2

To

The District Munsif cum Judicial Magistrate,
Natham.

Copy to: The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2)

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NA (CO)
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