

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.640 of 2016

Suguna

...Petitioner

Vs

Malliga Babu

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 20.10.2014 in I.A.No.752 of 2014 in O.S.No.244 of 2014 on the file of the District Munsif cum Judicial Magistrate, Sriperumbudur.

For Petitioner : Mrs.Tamizh Selvi

For Respondent : Mr.P.Vinoth kumar

ORDER

The Civil Revision Petition has been filed as against the fair and decretal order dated 20.10.2014 in I.A.No.752 of 2014 in O.S.No.244 of 2014 on the file of the District Munsif cum Judicial Magistrate,

Sriperumbudur, thereby dismissed the petition filed by the petitioner herein, for appointment of an Advocate Commissioner.

2.The petitioner filed the suit for permanent injunction as against the respondent. While pending suit, the petitioner has filed a petition for appointment of an Advocate Commissioner in I.A.No.752 of 2014 to inspect the suit property along with the Taluk Surveyor to note down the physical features and measure the suit property.

3.Admittedly, the suit is for permanent injunction. It is seen from the records that already the respondent has filed a suit for injunction and also for mandatory injunction directing the 2nd defendant in the said suit, to remove the construction put up in the suit property in O.S.No.216 of 2011. In the said suit, an Advocate Commissioner was appointed and awaits for report. Therefore, in the present suit, seeking for appointment of Advocate Commissioner is nothing but collection of evidence. The petitioner is the plaintiff in the present suit. She has filed the suit for permanent injunction and as such, she has to prove her possession in respect of the suit property, by letting evidence. That apart, the Court below already observed that the Advocate Commissioner's report in O.S.No.216 of 2011 can be relied upon

in the present suit, since, both the suits are filed on the same property.

4. Therefore, this Court finds no infirmity or irregularity in the order dated 20.10.2014 in I.A.No.752 of 2014 in O.S.No.244 of 2014 on the file of the District Munsif cum Judicial Magistrate, Sriperumbudur, and accordingly, this Civil Revision Petition stands dismissed.

5. Further, the suit is of the year 2014, the trial Court is directed to dispose of the same within a period of nine months from the date of receipt of a copy of this order. No costs.

03.02.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The District Munsif cum Judicial Magistrate, Sriperumbudur.

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G.K.ILANTHIRAIYAN.J,

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