

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.784 of 2016
and CMP No.4353 of 2016

V.N.Chinnasamy

...Petitioner

Vs

1.N.Venkatachalam
2.V.N.Kumarasamy
3.N.Viswanathan

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 20.01.2016 made in I.A.No.50 of 2015 in I.A.No.990 of 2012 in O.S.No.263 of 2012 on the file of the District Munsif-cum-Judicial Magistrate, Perundurai.

For Petitioner : Mr.Siva Prakash
for M/s.P.T.Ramadevi

For Respondents : No appearance

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 20.01.2016 made in I.A.No.50 of 2015 in I.A.No.990 of 2012 in O.S.No.263 of 2012 on the file of the District Munsif-cum-

Judicial Magistrate, Perundurai, thereby dismissing the petition seeking to scrap the Advocate Commissioner's report and plan and appointing a new Advocate Commissioner to measure the suit property.

2. The petitioner is the defendant and respondents are the plaintiffs. The respondents filed a suit for mandatory injunction to restore the suit cart track as per the revenue records made by the petitioner herein. At the instance of the respondents, an Advocate Commissioner was appointed to inspect the suit property and to survey the same with the help of the surveyor. Accordingly, the Advocate Commissioner visited the suit property and surveyed the same and filed his report with plan and FM Sketch. On receipt of the Advocate Commissioner's report, the petitioner filed his objections in the year 2012 itself and after a period of 3 years the petitioner filed a petition to scrap the Advocate Commissioner's report and also sought for appointment of a new Advocate Commissioner.

3. A perusal of the Advocate Commissioner's report, plan and filed map in accordance with the warrant issued by the Court below would

reveal that the only reason for the present petition is that the Advocate Commissioner noted an encroachment portion in the suit cart track. In fact, the Advocate Commissioner measured the suit property with the help of the surveyor and filed a detailed report. The petitioner also filed his objections to the Advocate Commissioner's report. Therefore, there is absolutely no ground to scrap the Advocate Commissioner's report and appointment of another Advocate Commissioner. Hence, the Court below rightly dismissed the petition. This Court finds no illegality or infirmity in the order passed by the Court below. Accordingly, the Civil Revision Petition is dismissed. However, the objections raised by the petitioner for the Advocate Commissioner can be considered during trial on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

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G.K.ILANTHIRAIYAN.J,

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To
The District Munsif-cum-Judicial Magistrate,
Perundurai.



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