

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(P.D) No. 1818 of 2021
and C.M.P.No.14098 of 2021**

Indira

...Petitioner

Vs.

1. Vivekanandhan
2. Paramamoorthy
3. SenthilKumar
4. Ramasamy

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 03.03.2021, passed by the learned District Munsif, Harur, Dharmapuri, in I.A.No.591 of 2020 in O.S.No.141 of 2020.

For Petitioner : Mr.J.Pradeep

सत्यमेव जयते

ORDER

This Civil Revision Petition is filed, to set aside the order dated 03.03.2021, passed by the learned District Munsif, Harur, Dharmapuri, in I.A.No.591 of 2020 in O.S.No.141 of 2020.

2. I.A.No.591 of 2020 in O.S.No.141 of 2020 was filed by the respondents 1 and 2, under Order 26 Rule 9 and Section 151 C.P.C. The reason for filing this petition is that the respondents 1 and 2 filed a suit for the relief of declaration and injunction in respect of the suit property and for cancellation of documents which had been executed by forgery. The respondents 1 and 2 are enjoying the suit property by having a bore well in the eastern side of the suit property. The petitioner created a forged document and claims right in the suit property. She also tried to encroach the suit property, claiming that the suit property belongs to the petitioner and as such tried to dig kadakal in the suit property.

3. In the said circumstances, it necessitated the respondents 1 and 2 to file a petition in I.A.No.591 of 2020 to measure the suit property by an Advocate commissioner with the help of the Surveyor. This petition was resisted by the petitioner, claiming that the respondents 1 and 2 have no right in the suit property. The learned District Munsif, Harur, Dharmapuri, after considering the rival submissions allowed the petition in I.A.No.591 of 2020 in O.S.No.141 of 2020 on 03.03.2021. Against the said order, the present Civil Revision Petition is preferred.

4. The learned counsel for the petitioner submitted that the suit property belong to the petitioner and the respondents 1 and 2 have no right, whatsoever in the suit property. There is no bore well in the suit property and no attempt was made to interfere with the possession and enjoyment of the respondents 1 and 2. In the said circumstances, appointment of an Advocate Commissioner is not necessary. Therefore, the learned counsel for the petitioner prayed for setting aside the the order dated 03.03.2021, passed by the learned District Munsif, Harur, Dharmapuri, in I.A.No.591 of 2020 in O.S.No.141 of 2020.

5. Considered the submissions and perused the records.

6. As stated earlier the suit was filed for the relief of declaration and injunction, in respect of the suit property and for cancellation of sale deed executed in favour of the 2nd defendant on 18.06.2012, and the sale deed executed in favour of 1st defendant on 05.03.2020. The petitioner also filed written statement in O.S.No.141 of 2020. The averment made in the plaint and in the written statement shows that there is dispute with regard to the claim of title in the suit property, especially the dispute is with regard to the boundaries of the suit property. It is rightly found by the learned District

Munsif, Harur, Dharmapuri, in I.A.No.591 of 2020 in O.S.No.141 of 2020 that the appointment of an Advocate Commissioner for measurement of the properties with the assistance of Surveyor, would help the court in resolving the issues correctly. Further, appointment of an Advocate Commissioner would also help the court in avoiding unnecessary oral and documentary evidence.

7. Under the said circumstances, this court finds no reason to interfere with the order dated 03.03.2021, passed by the learned District Munsif, Harur, Dharmapuri, in I.A.No.591 of 2020 in O.S.No.141 of 2020 and consequently, confirms the order.

8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

ep/Jer

07.09.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

G.CHANDRASEKHARAN.J,

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To

1. The District Munsif,
Harur, Dharmapuri District.
2. The Section Officer,
VR Section,
High Court of Madras.



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