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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.R.P.(PD).NO.2484 OF 2017

AND

C.M.P.NO.11789 OF 2017

[Video Conferencing]

S.Balaji Singh

... Petitioner

vs.

N.Panchantcharam

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 24.04.2017 made in I.A.No.219 of 2017 in O.S.No.88 of 2009 on the file of the learned District Munsif Court, Tambaram by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.T.Thiyagarajan

ORDER

This Civil Revision Petition has been filed by the petitioner against the order passed in I.A.No.219 of 2017 in O.S.No.88 of 2009 dated 24.04.2017 on the file of the learned District Munsif Court, Tambaram.

2.Heard the learned counsel for the petitioner and the respondent.

3.The petitioner herein is the defendant in the main suit in O.S.No.88 of 2009 filed by the respondent herein seeking permanent injunction against the defendant and subsequently, filed amendment petition seeking for mandatory injunction to remove the encroachments made by the defendant therein on the



Northern side of the plaint "A" Schedule property and handover the vacant possession of the same.

4.The respondent herein has filed Commission Application to measure the suit property with the assistance of the Taluk Surveyor. The Advocate Commissioner has also filed his Report and Plan after complying the prayer sought for in the petition.

5.The learned counsel for the petitioner would submit that the Advocate Commissioner has identified the boundary stone from the Southern side of the property i.e., the property of the respondent ignoring the measurement from the boundary stone on the Northern side i.e., at the property of this petitioner. It is further submitted that the Advocate Commissioner started measuring from the respondent property and ought to have measured starting from the petitioner side. Hence, the petitioner herein filed I.A.No.219 of 2017 in order to re-issue the warrant to the same Advocate Commissioner with the direction to measure the property from the original point i.e., Revenue Department stone to be fixed as reference point and measure the property by verifying the boundary stone between the parties of the suit and filed his fresh Report to ascertain the exact nature of the property under the occupation.

6.The Trial Court upon hearing the arguments of the learned counsel on both side, dismissed the petition. Against that order, the petitioner has preferred this Civil Revision Petition.

7.The learned counsel for the respondent would submit that the boundary stone was fixed by the Taluk Surveyor in the presence of both parties and after having taken all the measurements, the petitioner herein has nothing for further identification of the boundary stone [jiy fy;] and the Trial Court has also rightly discussed everything and dismissed the petition and no interference by this Court is called for. It is further submitted that it was found that there was no encroachment by the petitioner herein.

8.The learned counsel for the respondent also would point out the Commissioner's Report that after completion of inspection, the signatures of the respective parties and counsels were obtained and about the petitioner objection with regard to the fixation of boundary stone. It is also pointed out that the boundary stone was properly fixed by the Taluk Surveyor after the objection made by the petitioner herein. When the Advocate Commissioner has properly inspected and measured the property with the assistance of Surveyor, the petition to re-



issue the warrant to the same Commissioner is un-warranted and this Court is not inclined to interfere with the order passed by the Trial Court.

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

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssi

To:

1. The District Munsif Court, Tambaram.
2. The Section Officer,
V.R. Section, High Court of Madras.

+1cc to M/s.N.Manokaran, Advocate, S.R.No.60522

C.R.P. (PD) .No.2484 of 2017 and
C.M.P.No.11789 of 2017

AD(CO)
RLP(03/12/2021)