IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.3224 of 2018
and
CMP.No.18405 of 2018

S.Natarajan ..Petitioner

Vs.

Ayyasamy(died)
1.Corporation of Madras,
represented by its
Commissioner,
Rippon Buildings,
Park Town,
Chennai – 600 003
2.Chennai Metropolitan
Development Authority,
represented by its Member Secretary,
Talamuthu Natarajan Maligai,
Gandhi – Irwin Road,
Egmore, Chennai – 600 008
3.A.Lakshmi
4.A.Ganesh
5.Vijhee Subramanian
(Cause title accepted vide ordrer of
this Court dated 08.10.2018 in
CMP.No.17896 of 2018 in CRP.PD.No.
SR.75887 of 2018 ..Respondents

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PRAYER:

The Civil Revision Petition is filed under Article 227 of the

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Constitution of India to set aside the fair and decretal order of the learned I Additional Judge, City Civil Court, Chennai made in IA.No.9437 of 2015 in OS.No.6878 of 2013 dated 21.06.2017 and allow this civil revision petition.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents
For R1 : M/s.Karthika Ashok, Standing Counsel
For R2 : Mr.P.S.Ganesh, Standing Counsel
For R3 : Mr.S.Vijayakumar
R4 & 5 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order of the learned I Additional Judge, City Civil Court, Chennai made in IA.No.9437 of 2015 in OS.No.6878 of 2013 dated 21.06.2017, thereby dismissing the petition for re-issuance of warrant to the advocate commissioner to revisit the suit property with the help of the surveyor for measurement.

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2. The petitioner is the plaintiff and the respondents are the defendants in the suit filed by the petitioner for declaration, mandatory

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injunction and permanent injunction in respect of the suit property. Along with the suit, the petitioner also filed application for appointment of advocate commissioner to inspect the suit property and to demarcate the encroached portion by the first deceased defendant with the help of the surveyor. The said application was allowed and advocate commissioner was appointed by this Court. The advocate commissioner inspected the suit property with the help of the charted engineer and surveyed the property, and filed his report in 2001 itself before this Court. Subsequently, the petitioner filed petition for re-issuance of warrant to the same advocate commissioner for re-inspection with the help of the surveyor to measure the property, since he did not survey the suit property properly. Thereafter, the main suit itself was transferred to the file of the I Additional Judge, City Civil Court, Chennai. The court below dismissed the application for the reason that the advocate commissioner already inspected the suit property with the assistance of the engineer for the purpose of measuring the suit property and also filed report.

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3. On perusal of the advocate commissioner's report revealed that he has drawn plan to show the exact location with measurements and four boundaries. He also pointed out the portion which is encroached by the first deceased defendant. Therefore, there is

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absolutely no need to re-issue warrant to the advocate commissioner for the purpose of re-inspection with the help of the surveyor. That apart, when the engineer assisted the advocate commissioner without the help of the surveyor, he could not have measured the property. Therefore, the court below rightly dismissed the petition. As such, this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

23.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To

The I Additional Judge,
City Civil Court, Chennai

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G.K.ILANTHIRAIYAN,J.

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