



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.07.2021

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WEB COPY

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.R.P (PD) (MD) No.1544 of 2014
and
M.P (MD) No.1 of 2014

Samuel Aroon ...Petitioner/Petitioner/plaintiff
Vs.

1.Devaram
2.Paul Abraham ...Respondents/Respondents/Defendants

PRAYER:- The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 13.06.2014 passed in I.A.No.297 of 2014 in O.S.No.488 of 2012 on the file of the First Additional District Munsif, Tirunelveli and allow the Civil Revision Petition.

For Petitioner : Mr.J.Ashok
for M/s.Jeyapaul Associates

For Respondents : Mr.Ananth C.Rajesh

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order dated 13.06.2014 passed in I.A.No.297 of 2014 in O.S.No.488 of 2012 on the file of the first Additional District Munsif, Tirunelveli.

2.The facts of the case, in a nutshell, are that the revision petitioner is the plaintiff and the respondents are the defendants . The suit was filed for permanent injunction and other reliefs. In the suit, the petitioner has filed the above application, seeking to appoint an Advocate Commissioner to measure the suit properties and to note down the physical features. Since the said application was dismissed, by the impugned order, this Civil Revision Petition has been filed.

3.The learned counsel for the petitioner would submit that the appointment of an Advocate Commissioner to measure the suit



properties and to note down the physical features will resolve all the controversies involved in the suit and that since during the pendency of the suit, the respondent had damaged some trees and constructed a wall by encroaching the suit schedule properties, , the appointment of Advocate Commissioner is necessary and that therefore, the court below ought to have allowed the application.

4.The learned counsel for the respondent has submitted that there is no dispute with regard to identity or existence of the suit schedule property and the application was filed belatedly after completion of examination of the witnesses and the suit is posted for arguments and that the application is filed only to protract the case and that there is no bona fide reasons for allowing the application and in such circumstances, this revision is liable to be dismissed.

5.This Court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6.It is seen that the application seeking for appointment of Advocate Commissioner was filed belatedly after completion of examination of the witnesses. The Plaintiff should have taken necessary steps to file an application at the threshold itself and only to drag on the proceedings, the said application had been filed. Considering the said reasons, the court below had rightly dismissed the application, by the impugned order, which warrants no interference by this Court.

7.In fine, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp/msa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To:

1.The First Additional District Munsif, Tirunelveli.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

+1CC to M/S. M.S.Jawaharlal, Advocate, in SR. NO. 2306

C.R.P (PD) (MD)No.1544 of 2014
and

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MGJ(26.07.2021) 3P 5C