



CRP.(NPD).No.811/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P.(NPD).No.811 of 2022
& C.M.P.No.4062 of 2022

Valli
W/o.Vinayagam

... Petitioner

Vs.

1.Jamuna
W/o.Late Selvaraj

2.S.Sivaraj
S/o.Selvaraj

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against fair and decretal order dated 05-08-2021 in I.A.No.111/2021 in O.S.No.01 of 2021 on the file of learned Principal District Munsif Court, Thriuvannamalai.

For Petitioner : M/s. Amritha Sarayoo

ORDER

The plaintiff in a suit for declaration of title and injunction has approached this Court in this Revision, challenging an order in I.A.No.111 of 2021 by



which, the trial Court has appointed a Commissioner for local inspection at the instance of the defendants / respondents.

2.The quintessence of the dispute is that the plaintiff has laid a foundation and erected some pillars on the plot which according to the defendants belong to them. In addition, the defendants also allege that some of the documents which the plaintiff has produced before the Court actually pertains to their (defendants') property. It is in this circumstances, the defendants have taken out the said application and the trial Court has allowed it.

3.Learned counsel for the revision petitioner / plaintiff was vehement in decrying the line of reasoning of the learned trial Judge, contending that at the end of the day, the burden is on the plaintiff to prove, and the defendants need not take upon themselves the responsibility to produce evidence. She also said that the electricity meter pertaining to the property is within the residence of the plaintiff, which is far way from the suit property and that even the door numbers are different.

4.This Court followed the submissions of the learned counsel with keenness



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but finds that this precisely is a reason why a commissioner shall have to be appointed. If the property which the plaintiff contends as hers, and the one over which the defendants seem to be asserting title are two different properties, then even that may have to be ascertained. The commissioner can visit the property and file a report. It may have to be underscored that in all such situation it is not so much about the burden of proof merely, but what best the Court can have access for resolving the dispute.

5.Hence, this Court holds that there is no infirmity in the order of the trial Court which may warrant its interference. The Revision is hence dismissed. The plaintiff is also free to file any points that the commissioner may have to note before the Court, if she is so interested. Consequently, the connected C.M.P.No.4062 of 2022 is also dismissed.

18.03.2022

kas

Index : Yes/No
Speaking /Non Speaking

To:
The District Munsif Court
Thiruvannamalai

N.SESHASAYEE, J.,



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