



C.R.P.PD. No.2454 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on	31/3/2022
Pronounced on	8/6/2022

C O R A M

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.R.P.PD.No.2454 of 2014

a n d

M.P.No.1 of 2014

Rajapathi

...

Petitioner

Vs

1. Devi

2. Balaji

3. Baskar

...

Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 25/3/2014 made in I.A.No.522 of 2013 in O.S.No.149 of 2013 on the file of the Principal District Munsif Court, Thiruvannamalai.

For petitioner

...

Mr.N.A.Ravindran

For respondents

...

Mr.S.Panneer Selvam



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ORDER

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This Civil Revision Petition has been filed against the fair and decreetal order, dated 25/3/2014, made in I.A.No.522 of 2013 in O.S.No.149 of 2013, on the file of the Principal District Munsif Court, Thiruvannamalai.

2. Brief facts which are necessary for the disposal of this Civil Revision Petition are as follows:-

The petitioner's father had purchased the suit from Subramani and others for a valuable consideration of Rs.13500/- under a registered sale deed, dated 17/6/1988. He constructed a building and he was paying the property tax regularly. Vide, settlement deed dated 4/12/2008 the petitioner's father transferred the suit property in the name of the petitioner.

3. The first respondent is the mother of the respondents 2 and 3. First respondent executed a registered settlement deed, dated 16/5/2013, in favour of the respondents 2 and 3 relating to the vacant site. The first respondent settled the property which is set out as 'A' schedule in favour of the second respondent 'B'



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schedule in favour of the third respondent. The respondents have admitted that the petitioner's father is owning the property on the southern site of their property by way of boundary description in the settlement deed, dated 16/5/2013. The respondents made some arrangements to start construction over their property. Hence the petitioner had filed an application in I.A.No.346 of 2013 for appointment of an Advocate Commissioner to measure the suit property and to note down the physical features. The learned Advocate Commissioner had filed a report dated 24/6/2013. The petitioner had filed objections to the Advocate Commissioner's report, on 4/7/2013. Taking advantage of the notice ordered in I.A., the respondents have trespassed over the northern portion of the petition and illegally started putting constructions.

4. After considering the arguments advanced on either side, the learned Judge dismissed the I.A., and observed that if the petitioner is aggrieved by the report of the Advocate Commissioner, he has to take steps to file a petition to order for revisit and the petitioner is not entitled to file a fresh petition for appointment of Advocate Commissioner for the second time.



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5. Heard Mr.N.A.Ravindran, learned counsel for the petitioner and

Mr.S.Panneer Selvam learned counsel for the respondents.

6. After going through the materials available on record, this Court is of the considered view that unless and until the earlier Advocate Commissioner report is set aside, application to appoint the very same Advocate Commissioner for the second time does not exist and the same lacks bona fide. The view expressed by the learned Judge does not warrant interference.

7. In such a view of the matter, this Civil Revision Petition is dismissed. No costs. Consequently the connected Miscellaneous Petition is closed.

8/6/2022

Index : Yes/No

Internet : Yes/No

mvs.

To

1. The Principal District Munsif Court, Thiruvannamalai.

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J.NISHA BANU, J

mvs.

Pre-delivery order made in
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8/6/2022