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C.R.P. (PD) No.2594 of 2022
& C.M.P.No.13327 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2594 of 2022
& C.M.P.No.13327 of 2022

D.Subramani

...

Petitioner /
Plaintiff

versus

1.Murugan

2.Sekar

...

Respondents /
Defendants

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.04.2022 made in I.A.No.3 of 2021 in O.S.No.37 of 2017 on the file of the learned Principal District Munsif, Tiruvallur, by allowing this revision.

For Petitioner : Mr.B.Gandhi

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Principal District Munsif, Tiruvallur, dated 06.04.2022 made in I.A.No.3 of 2021 in O.S.No.37 of 2017.



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2. The revision petitioner is the plaintiff, who has filed a petition to re-issue the commission warrant to the same Commissioner to revisit the property and to take measurements and the same was dismissed. Aggrieved over that, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the suit 'B' schedule property is an encroached portion in 'A' schedule property and over which he has sought the reliefs of declaration, recovery of possession and also mandatory injunction for removing the superstructure put up therein; even though the Commissioner has visited the suit property, he did not take the measurements of 'B' schedule property and hence, the petition was filed to re-issue the commission warrant and the same was not considered favourably.

4. The Commissioner has been appointed only at the instance of the petition filed by the plaintiff and he had inspected the property and filed his report. Since 'A' schedule property comprised in 'B' schedule property, the Commissioner has taken the entire measurement of



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'A' schedule property and highlighted the encroached portion as 'EFGJ' in his sketch filed along with the report. The learned counsel for the revision petitioner contended that apart from the northern portion in which the encroachment is so marked by the Commissioner, there are also encroachments in the southern portion which was omitted to be noticed.

5. The Commissioner has taken the entire measurement of the suit property and has filed report clearly by demarcating the encroached portion. The Commissioner has executed the terms of the commission warrant and the report has also been returned. Therefore, the Court has to consider the acceptability of the report. If the revision petitioner is aggrieved, he can raise his objection or cross-examine the Commissioner on the aspects which he would object. Since the Commissioner has already done the job the learned trial Judge is right in dismissing the application by stating that re-issue the commission warrant will not serve any new purpose. Hence, I do not find any reason for interference.

6. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 06.04.2022 passed by the learned Principal District Munsif, Tiruvallur in I.A.No.3 of 2021 in O.S.No.37 of



2017 is hereby confirmed. Consequently, connected Miscellaneous Petition
is closed. No costs.

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Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

The Principal District Munsif, Tiruvallur.



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R.N.MANJULA, J.

sri

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