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C.R.P(PD)No.2294 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)Nos.2294 & 2297 of 2021
& CMP.No.17368 of 2021

N.S.Srinikumar

... Petitioner

Vs.

1.N.Balasubramanian
2.Napa Sricharana
3.N.Srihari
4.The District Collector,
Thiruvallur District.

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the orders dated 15.09.2021 and 04.08.2021 passed respectively in I.A.No.5 of 2021 & I.A.No. 3 of 2020 in O.S.No.298 of 2018 on the file of the I Addl. District Court Thiruvallur.

For Petitioner	:	Mr.PL.Narayanan
For R1 to R3	:	Mr.K.Boopalan
For R4	:	Ms.P.Vijaya Devi, Government Advocate

ORDER

These two revisions are preferred by the plaintiff in O.S.No.298 of 2018 challenging an order passed respectively in I.A.No.5 of 2021 and I.A.No.3 of 2020 in O.S.No.298 of 2018.



2.The suit was laid by the plaintiff for declaration of his title and for setting aside a certain sale deed dated 10.07.1962.

3.The facts may be stated briefly;

- The suit properties earlier belong to certain Chengalli Chetti. He had three sons, namely Srinivasalu, Vasudevaiah and another. The litigation is between the descendants of Srinivasalu and Vasudevaiah.
- According to the defendants, there was a family partition between the three sons of Chengalli Chetti, in which the suit property came to be allotted to Srinivasalu and Vasudevaiah, both taking a specific half. Srinivasalu had three children namely, Ramarathinam, Ramalingam and Chandira. Vasudevaiah, (under whom the plaintiff claims) had executed a sale deed dated 10.07.1962, in favour of his nephew Ramarathinam. In due course, Ramarathinam has also bought the shares of his brother Ramalingam and sister Chandira and had thus become the absolute owner of the property.
- The plaintiff herein is the grandson of Vasudevaiah, and he has instituted the suit on the basis of a settlement deed that his father



has executed in his favour.

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4.The pleadings in the suit are complete. Issues too have been framed. At this stage, the plaintiff has taken out two Applications. The first in I.A.No.3 of 2020 for appointing a Commission for local inspection and another in I.A.No. 5 of 2021 to frame an additional issue. Both came to be dismissed by the trial Court respectively on 04.08.2021 and 15.09.2021. They are now in challenge.

5.The learned counsel for the revision petitioner submitted that the possession is still with the plaintiff and the trial Court ought to have framed an issue on possessory title. In deed, he claims title by adverse possession. So far as, the other Application for appointing a Commissioner is concerned, the learned counsel submitted that the local inspection of the property is mandatory.

6.Heard the learned counsel for the respondents and perused the documents on record.

7.This Court is satisfied that there is no infirmity, illegality or impropriety



in the orders of the trial Court. An issue indeed has been framed pertaining to the alleged claim of title by the plaintiff and that can take care of any issue that is now proposed. So far as the other Application in I.A.No.3 of 2020 for appointing a Commissioner is concerned, this Court finds that the nature of the case and the pleadings therein does not require appointing of a Commission. After all, the plaintiff can sustain his claim on title either upon cancellation of a sale deed which his paternal grandfather Vasudevaiah has executed in 1962 in favour of the defendant or by proving adverse possession and for which, noting down the physical features of the property or measuring the property etc., are not necessary.

8.In conclusion, this Court does not find any merit in both the Civil Revision Petitions and accordingly, both are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

17.03.2022

Index : Yes/No
Internet : Yes / No
Speaking /Non Speaking

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To

The I Addl. District Court,

Thiruvallur.



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N.SESHASAYEE, J.,

Tsg

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