



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD).No.1836 of 2021

and

C.M.P (MD).No.9857 of 2021

Vijayakumar

...Petitioner/Respondent

Vs.

Thillai Natarajan

...Respondent/Appellant

PRAYER: Civil Revision Petition filed under Article 227 of Consitution of Inida, to allow the Civil Revision Petition and set aside the order and decreetal order passed in I.A.No.11 of 2017 in A.S.No.4 of 2015, dated 18.08.2017 on the file of Subordinate Court, Aruppukottai.

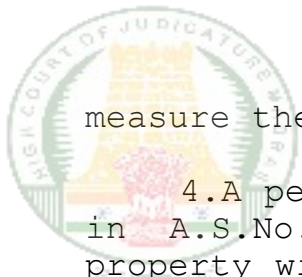
For Petitioner : Mr.C.Godwin
For Respondent : Mr.S.Selva Aditya

O R D E R

This Civil Revision Petition is filed to set-aside the order and decreetal order passed in I.A.No.11 of 2017 in A.S.No.4 of 2015, dated 18.08.2017 on the file of Subordinate Court, Aruppukottai.

2.The said suit in O.S.No.25 of 2003 was filed by the petitioner/plaintiff for declaration, permanent injunction and mandatory injunction, which was decreed on 10.04.2015. Against the said order, the respondent/defendant filed A.S.No.4 of 2015. In the said first appeal, the respondent/defendant has filed I.A.No.11 of 2017 for appointment of Advocate Commissioner and the same was allowed by the Subordinate Judge, Aruppkottai and appointed an Advocate Commissioner to measure the property with documents filed by both the parties. On 16.03.2020, the Advocate Commissioner had filed a report in I.A.No.11 of 2017 in A.S.No.04 of 2015. The revision petitioner has filed an objection against the report of Advocate Commissioner and after that he has filed this Civil Revision Petition before this Court.

3.The learned counsel for the revision petitioner submitted that already Ex.B1 - Partition Deed, filed by the appellant was not considered by the trial Court, so the Advocate Commissioner cannot



measure the suit property with the help of Ex.B1.

4.A perusal of records would show that as per I.A.No.11 of 2017 in A.S.No.04 of 2015, the Advocate Commissioner measured the property with the documents filed by both the parties and filed his report. So if any objection is raised by the revision petitioner/plaintiff, it can be raised only before the Appellate Court and he cannot file this civil revision case for re-issuance of the Advocate Commissioner's report. Hence, the revision petitioner is at liberty to raise all his objections before the Appellate Court.

5.With the above observation, the Civil Revision Petition is dismissed. by confirming the order, dated 18.08.2017 in I.A.No.11 of 2017 in A.S.No.4 of 2015, passed by the learned Subordinate Judge, Aruppukottai. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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

The Subordinate Judge,
Aruppukottai.

+1 CC to M/s.C.GODWIN, Advocate (SR-5451[F] dated 10/02/2022)

+1 CC to M/s.S.SELVA ADITYA, Advocate (SR-5558[F] dated 11/02/2022)

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RD(21.03.2022) 2P 4C