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C.R.P.(PD).Nos.830 and 831 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

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THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.R.P.(PD).Nos.830 and 831 of 2019

K.Sasirekha

... Petitioner in both C.R.Ps

Vs.

1.K.Gnanamoorthy

2.B.Preethi

... Respondents in both C.R.Ps

Prayer in C.R.P.(PD).No.830 of 2019: Petition filed under Article 227 of the Constitution of India, seeking to set aside the order in I.A.No.942 of 2015 in O.A.No.2185 of 2014, dated 10.09.2018, on the file of the Principal District Munsif, Coimbatore.

Prayer in C.R.P.(PD).No.831 of 2019: Petition filed under Article 227 of the Constitution of India, seeking to set aside the order in I.A.No.941 of 2015 in O.A.No.2185 of 2014, dated 10.09.2018, on the file of the Principal District Munsif, Coimbatore.



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In both C.R.Ps

For Petitioner : Mr.A.E.Ravichandran
For Respondents : Mr.M.N.Balakrishnan
for R1

Batta due
for R2

COMMON ORDER

In a suit for declaration of title and injunction, the plaintiff alleged that he is the owner of the Plot No.77, and that his adjacent plot owners which included the revision petitioner herein who is the owner of Plot No.78, have encroached the property. The trial Court appointed a Commissioner for local inspection who had since filed his report, wherein he had indicated that both the defendants, which includes the present revision petitioner, have encroached into Plot No.77, belonging to the plaintiff. Following this, the plaintiff has taken out an application in I.A.No.941 of 2015, for amending the plaint. The revision petitioner on his part had taken out an application in I.A.No.942 of 2015, for rejection of the commissioner's report. It may be stated that the revision petitioner has filed his objection to the Commissioner's report. After considering both these applications, the trial



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Court chose to allow I.A.No.941 of 2015, filed by the plaintiff for amending the plaint and dismissed I.A.No.942 of 2015, filed by the revision petitioner.

Hence, these two revisions.

2.Heard both sides.

3.This Court principally is in concurrence with the line of reasoning of the trial Court in both the applications, and do not intend to interfere with them. Sofar as the order passed in I.A.No.941 of 2015, which is the subject matter of C.R.P.No.831 of 2019 is concerned, as rightly observed by the trial Court, the revision petitioner will have all the right to cross examine the Commissioner.

4.The trial Court may evaluate the quality of the report filed by the Commissioner, and this Court need not require to remind the trial Court that it has all powers to impeach the Commissioner's report, if it is liable to be impeached, and that in such an eventuality, it also has ample powers to appoint a new Commissioner for the same purpose.



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N.SESHASAYEE

Anu

5.Subject to what is herein above stated, both the Civil Revision Petitions stands dismissed. No Costs.

15.06.2023

Anu

Index : yes / no

Internet : yes / no

Speaking / non speaking

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