



CRP.No. 1376 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 1376 of 2020

and

C.M.P.No.7961 of 2020

R. Balasubramaniam

.. Petitioner

Versus

1. Ramasamy

2. Govindasamy

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the petition and Docket order of the District Munsif Court at Palladam, dated 06.11.2019 in I.A.No.502 of 2019 in O.S.No.138 of 2019 and pass orders.

For Petitioner

: Mr. P. Valliappan

For Respondents

: Mr. R. Sithirai Anandan



CRP.No. 1376 of 2020

WEB COPY

ORDER

This Civil Revision Petition has been filed to set aside the petition and Docket order of the District Munsif Court at Palladam, dated 06.11.2019 in I.A.No.502 of 2019 in O.S.No.138 of 2019.

2.The case in brief, is as follows:

The Revision petitioner herein is the defendant and the respondents herein are the appellants in the suit in O.S.No.138 of 2019. The subject matter of this petition is the cart track which has a width of 41 links and 45 links between North South and East West in S.F.No.144/1 of Karaipudur Village, Palladam Taluk and the respondents herein are in possession and enjoyment of the same and they are using the same to access their properties. Whiles, the Revision petitioner herein claims that he has right over the subject property and has put up a construction therein and thereby caused disturbance to the respondents herein to use the cart track, due to which they have filed a suit in O.S.No.138 of 2019 before the District Munsif Court at Palladam. The



CRP.No. 1376 of 2020

learned Judge after perusing the materials available on record had passed an order on 06.11.2019, wherein it was stated that an Advocate Commissioner has been appointed to note down the physical features of the suit property and measure the same with assistance of Taluk Surveyor. Aggrieved over the same the Respondent-R.Balasubramaniam in O.S.No.138 of 2019 has come up with this Civil Revision Petition to set aside the same.

3. The learned counsel for the revision petitioner contends that appointment of Advocate commissioner is absolutely unnecessary in the instant case. He further submits that an Advocate Commissioner cannot be appointed to note down physical features of the properties, which are situated in and around the suit suit property. Hence he prays this Court to allow this petition by setting aside the order passed by the Court below.

4. The learned counsel appearing for the respondents submitted that the cart track belongs to them by virtue of sale deed dated 28.02.2001 and they have every right for using the cart track. He further



CRP.No. 1376 of 2020

submits that the Revision petitioner has illegally encroached the Cart track hence, they are not able to take any vehicle and also do cultivation. Hence he prays this Court to dismiss this petition.

5. Heard both sides and perused the materials available on records.

6. On going the entire records it is seen that the Revision petitioner herein has not even filed a document before the Court below and before this Court to substantiate his contention that he has right over the said Cart. Further more, the learned Judge has not passed any adverse order against the Revision petitioner and he has appointed an Advocate commissioner to note down the physical features, whileso, what prevented the Revision Petitioner to co-ordinate with the Advocate Commissioner.

7. Even assuming that the Revision petitioner has right over the cart track what prevented him to produce the document that he has right over the cart track and to file a written statement before this Court. Even with regard to time, sufficient opportunity has to be given, admittedly the



CRP.No. 1376 of 2020

case is of the year 2019 and this petition is of the year 2020 i.e and now after a lapse of 5 years the Revision petitioner has not come forward even to file a written statement, inspite of this Court has also granted interim stay vide order dated 29.07.2020 in I.A.No.502 of 209 in O.S.No.138 of 2019, which clearly reveals the fact that the Revision petitioner wants to drag on the proceedings and to proceed the case.

8. In view of the foregoing reasons and in the absence of materials to establish that the Revision petitioner has right over the cart track, the prayer sought for by the Revision petitioner cannot be granted by this Court and this Civil Revision petition deserves to be dismissed. Accordingly this Civil Revision petition is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

10.02.2023

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn



WEB COPY



CRP.No. 1376 of 2020

To

1. The District Munsif Court at Palladam,
2. The Section Officer, V.R.Section,
High Court, Madras.



WEB COPY



CRP.No. 1376 of 2020

V.BHAVANI SUBBAROYAN, J.

smn

CRP.No. 1376 of 2020
and
C.M.P.No.7961 of 2020

10.02.2023