



CRP.No.3014 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CRP.No.3014 of 2023
and CMP.No.18599 of 2023

Sivalingam

... Petitioner

Vs.

K.Palanisamy (died)

1.C.Thangamani

2.Gayathri

3.Praba Venkatesh

... Respondents

Prayer : Civil revision is filed under Article 227 of the Constitution of India to allow the civil revision petition, by setting aside the fair and decreetal order dated 26.04.2023 passed in IA.No.264/2018 in OS.No.298/2013 on the file of the I Additional Subordinate Court, Erode.

For Petitioner : Mr.S.Senthil



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ORDER

Heard the learned counsel for the petitioner.

2. The brief facts of the case is as follows :-

The petitioner is the plaintiff in the suit. He filed the suit for the relief of declaration and permanent injunction. During the pendency of the suit, the first defendant/K.Palanisamy died and his legal heirs were impleaded as defendants 3 and 4. Thereafter, the petitioner/plaintiff has filed an application in IA.No.384 of 2013 to appoint an Advocate Commissioner to ascertain the physical features of the land. The said application was allowed and the Advocate Commissioner was appointed and he surveyed the land and filed his report along with rough plan before the Court. Subsequently, the respondents/defendants filed an application in IA.No.611 of 2013 seeking to reissue the warrant to the Advocate Commissioner to survey the land with the help of the Government Surveyor, after enquiry, the trial Court allowed the application and reissued the warrant to the erstwhile Advocate Commissioner, the land was surveyed and report was also filed by the Advocate Commissioner. Aggrieved over the report



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filed by the Advocate Commissioner, the petitioner/plaintiff filed another application in IA.No.264 of 2018 to issue rewarrant to the Advocate Commissioner to survey the property and to note down the physical features with the help of the surveyor. The said application was dismissed by the Court, hence, the petitioner is before this Court with the present revision.

3. Already, the learned Advocate Commissioner was appointed by the trial Court in the year 2013 in IA.No.611 of 2013 and the land was measured with the help of the licensed surveyor, in the presence of both the parties. Thereafter, the learned Advocate Commissioner filed his report before the Trial Court, which was objected by the petitioner herein by filing IA.No.960 of 2017, which was dismissed by the trial Court. Thereafter, the petitioner filed yet another application for reissuance of Advocate Commissioner warrant and to resurvey the land. The said issue was already discussed by the trial Court in detail in paragraph No.5.3 of the order dated 26.04.2023, wherein the entire report filed by the erstwhile Advocate Commissioner was discussed about the physical



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features of the land and the properties owned by the parties concerned alongwith the rough sketch and plan. This Court finds that there is no necessity for measuring the property once again, the petitioner has filed this petition only to prolong the proceedings.

4. In the result, the civil revision petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

25.08.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

1.The I Additional Subordinate Court, Erode.



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