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C.R.P.No.2754 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM:

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

Civil Revision Petition.No.2754 of 2023

Aavudaithai

... Petitioner

Versus

1.Soundaravalli

2.Saravanan

3.Balamurugan

... Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the fair and final order dated 23.03.2023, made in I.A.No.1 of 2021 in O.S.NO.73 of 2017 passed by the District Munsiff Court, Sirkali.

For Petitioner

: Mr.B.Jawahar

ORDER

Heard the learned counsel for the petitioner/plaintiff and perused the materials available on record.



2. On a perusal of the records, it is seen that the plaintiff filed a suit in O.S.No.73 of 2017 before the District Munsiff Court, Sirkali, for permanent injunction and mandatory injunction.

3. The respondent/defendants have contested the suit by filing written statement denying all the averments made in the plaint. While pending the suit, the petitioner/plaintiff filed an application in I.A.No.443 of 2017 seeking to appoint an Advocate Commissioner along with Land Surveyor to inspect the suit properties and submit a report along with sketch. Pursuant to the application filed by her, the Land Surveyor along with Advocate Commissioner measured the suit properties based on the revenue records of the Government and allowed the application by order dated 21.11.2017 and they had submitted a report along with sketch before the Court below. But, the Commissioner and Surveyor have not measured the suit property properly by way of sale deed and capital documents of the plaintiff. At this juncture, the petitioner filed I.A.No.1 of 2021 under Order 26 Rule 9 of C.P.C. After perusing the records, the Court below dismissed the application by order dated 23.03.2023. Aggrieved by the said order, the plaintiff has come forward with the present Civil Revision Petition under Article 227 of the Constitution of India.



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4. The contention of the petitioner/plaintiff is that the suit properties have not measured properly by the Advocate Commissioner along with Surveyor through sale deed and capital documents of the plaintiff. Hence, the plaintiff prays to remeasure the suit properties by way of title deeds and capital documents. Therefore, the above Revision is liable to be allowed.

5. The contention of the respondents is that the suit properties had already measured and submitted a report before the Court below through Revenue records as well as the title deeds of the plaintiff by filing application in I.A.No.443 of 2017. Therefore, the above Civil Revision Petition is liable to be dismissed.

6. It is also seen that the suit was filed by the plaintiff for mandatory injunction and permanent injunction in the year 2017. The suit properties of “A” and “B” had already measured by the Surveyor along with Advocate Commissioner by way of all the revenue records of the Government of Tamil Nadu by filing application in I.A.No.443 of 2017. Subsequently, the plaintiff has not filed any application to set aside the Commissioner's report dated 21.11.2017. Now, the plaintiff has filed the present application seeking to re-measure the suit properties based on the title deeds and capital documents



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are not sustainable. Therefore, the plaintiff has filed the application to prolong the suit proceedings. However, all the aspects have gone into the trial stage and therefore, the Court below has rightly dismissed the application by order dated 23.03.2023. Therefore, this Court is not inclined to interfere with the order passed by the Court below.

7. Accordingly, the Civil Revision Petition is dismissed. No costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The District Munsiff Court, Sirkali.

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