



C.R.P.(MD).No.2865 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.2865 of 2018

1.Raviprasath
2.R.Chandra

... Petitioners/Petitioners/
Defendants

-VS-

1.Mohammed Abdullah
2.Mohammed Abudahir

... Respondents/Respondents/
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 12.08.2018 passed in I.A.No.50 of 2018 in O.S.No.911 of 2013, on the file of the Principal District Munsif, Tiruchirappalli and set aside the same.

For Petitioners : Mr.R.Sundar Srinivasan

For Respondents : Mr.S.Ramsundarvijayraj
for Veera Associates



WEB COPY



C.R.P.(MD).No.2865 of 2018

ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.08.2018 in I.A.No.50 of 2018 in O.S.No.911 of 2013, on the file of the Principal District Munsif, Tiruchirappalli.

2. The petitioners are the defendants before the suit, the respondents herein are the plaintiffs before the suit.

3. It appears that the respondents have filed a suit for the relief of permanent injunction in respect of 'B' schedule property. In which, they have also moved an application in I.A.No.575 of 2013 for appointment of Advocate Commissioner. In pursuance there of, the Commissioner has filed a report along with plan and sketch. Aggrieved with the said Commissioner's report, the petitioners herein have filed a memo of objection saying that the Commissioner did not measure the property properly. Hence, it appears that



C.R.P.(MD).No.2865 of 2018

the petitioners/defendants have moved an application in I.A.No.50 of 2018 for appointment of fresh Commissioner, after scraping the earlier commissioner's report in I.A.No.575 of 2013.

4. The said application was resisted by the respondents/plaintiffs by contending that the surveyor has given a detailed report. According to said report, the 'B' schedule property is situate in both T.S.Nos.4/1 and 4/2. Therefore, would submit that there is no necessity for scraping the earlier commissioner's report and for appointment of fresh commissioner.

5. After hearing the either side, the Court below has dismissed the application by disbelieving the statement made by the petitioners. Aggrieved with the said order, the petitioner has filed present civil revision petition.

6. The learned counsel for the petitioners vehemently submits that the commissioner has not measured the property properly, and the commissioner's report is not in accordance with the surveyors report. In this regard, they have also filed a detailed memo of objection. In spite of filing the memo of objection, according to the petitioner the court below has wrongly dismissed



C.R.P.(MD).No.2865 of 2018

the application. Hence, prayed this court to allow this civil revision petition.

WEB COPY

7. The learned counsel for the respondents vehemently submits that there is no discrepancy between the surveyor report and the commissioner's report, and further would submit that even if at all any discrepancy, it would be decided during the examination of the witnesses, and he could further submits that since the Commissioner's report is not in their favour, they filed the instant application to scrap the same.

8. This Court has given anxious consideration to the submissions of the learned counsel on either side.

9. The learned counsel for the respondents has filed the additional typed set of papers enclosing the surveyor's report. Wherein, this Court would be able to find the measurement of the S.F.4/1 and 4/2. Further, the learned counsel for the petitioners would invite the attention of this Court that there is no measurement on the eastern side in the advocate commissioner's report. On perusal of the Advocate Commissioner there is no measurement shown for the eastern side.



C.R.P.(MD).No.2865 of 2018

WEB COPY

10. However, on perusal of the surveyor sketch, a detailed measurement has been given in S.F.No.4/1 and also been given a colour coding in respect of the suit property. However, in the additional typed set, the colour code could not be seen as it is black and white. It is also the submission of the learned counsel for the petitioners that the surveyor report is not at all drawn by the surveyor after the measurement and it is only copying from the revenue records.

11. On the perusal of the commissioner's report, he has mentioned about the measurement of the suit property and apart from that, even in the surveyors report there is a description mentioning that his report has been prepared after measuring the suit property. Therefore, this Court is of the opinion that the objection raised on the side of the petitioners has not been established. Hence, there is no ground to interfere with the order of the court below.

10. In the result, this civil revision petition is dismissed. No costs.



C.R.P.(MD).No.2865 of 2018

WEB COPY

11. Considering the suit is of the year 2013, the trial court is expected to dispose of the matter as expeditiously as possible, within a period of six (6) months from the date of receipt of a copy of this order.

22.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
am

To

The Principal District Munsif,
Tiruchirappalli



WEB COPY



C.R.P.(MD).No.2865 of 2018

C.KUMARAPPAN,J.

am

C.R.P(PD)(MD)No.2865 of 2018

22.08.2023



WEB COPY



C.R.P.(MD).No.2865 of 2018