



C.R.P.(MD)No.2876 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2876 of 2023
and
C.M.P.(MD)No.14981 of 2023

P.Kalimuthu : Petitioner/Petitioner/Plaintiff

Vs.

1.Selvam @ Muthuselvam

2.C.Kalimuthu : Respondents/Respondents/
Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 07.08.2023 made in I.A.No.1 of 2023 in O.S.No.42 of 2015 on the file of the District Munsif Court, Paramakudi.

For Petitioners : Mr.PT.S.Narendravasan

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2023 in O.S.No.42 of 2015, dated 07.08.2023 on the file of the



C.R.P.(MD)No.2876 of 2023

District Munsif Court, Paramakudi, dismissing the petition filed under Order VI Rule 17 and 18 and Section 151 of C.P.C.

2. It is evident from the records that an Advocate Commissioner, who was appointed in the suit, has already visited the suit property thrice and lastly commission was re-issued and the Advocate Commissioner has filed his report and plan on 08.06.2023 and after filing the report, the present application came to be filed.

3. The learned counsel for the petitioner would submit that since the Advocate Commissioner's report and the plan shows excess of 1.2 metre in south to north direction in S.No.13/7C, plaint is to be amended to mention that a portion of the suit property is situated in S.No.13/7C. He would further submit that though they have taken a stand that the encroachment was within the petitioner's land in S.No.13/8A, the Commissioner's latest report has stated that the same was in S.No.13/7C.

4. It is pertinent to note that nobody can be allowed to amend the pleadings in pursuance of the Commissioner's report and plan. It is settled law that the parties cannot be permitted to gather evidence for the suit from the Commissioner's report and plan.



C.R.P.(MD)No.2876 of 2023

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5. Considering the above, the impugned order dismissing the petition cannot be found fault with. Hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. However, the suit is of the year 2015, the learned District Munsif, Paramakudi, is directed to dispose of the suit in O.S.No.42 of 2015, within period of three months from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

06.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The District Munsif Court, Paramakudi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.2876 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.2876 of 2023
and
C.M.P.(MD)No.14981 of 2023

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