



C.R.P.(PD).No.395 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.395 of 2019
and C.M.P.No.2712 of 2019

1.M.Baskaran

... Petitioner

VS

1.Thiruvengkatam

2.Sathyanarayanan

3.Naran Kumar

4.Maheswari

5.The Sub-Registrar,
Arcot,
Sub Registrar Office
Arcot Taluk
Vellore District.

... Respondents

Prayer: Civil Revision Petition is filed under Section 227 of the Constitution of India, praying to set aside the order and decree in 05.09.2018 in I.A.No.303 of 2018 in O.S.No.124 of 2013 on the file of the Sub-Court, Ranipet, Vellore District.



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For Petitioner : M/s.S.Hemalatha
For R1 to R4 : Mr.T.P.Prabakaran
For R5 : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to measure the suit property with the help of Surveyor and to note down the physical features.

2. The petitioner herein filed a suit seeking declaration of his right over 'C' schedule property and for permanent injunction restraining the respondents from interfering with petitioner's peaceful possession and enjoyment of 'A' schedule property. The petitioner also seeks permanent injunction restraining the respondents from encumbering the suit 'A' and 'B' schedule properties. It is the specific case of the petitioner that suit 'C' schedule property is portion of suit 'A' schedule property.



3. In the written statement filed by the respondents, the identity of the suit property was disputed. It was specifically averred by the respondents that 'C' schedule property was not part and parcel of 'A' schedule property. Further, in the written statement, it was averred by the respondents that petitioner in connivance and collusion with the Revenue Officers, obtained fraudulent sub-division in respect of respondents' land and got patta in his favour in respect of portion of respondents' land. Therefore, there is a serious dispute with regard to very identity of the suit property in the plaint. Therefore, if the suit property and also the properties of the defendants are measured by a qualified Surveyor with reference to the title documents of the respective parties, it will enable the Court to properly identify the suit property and adjudicate the controversy involved in the suit in an effective manner. The Trial Court erroneously observed that there was no dispute with regard to identity of the suit property.

4. Having regard to the controversy in the plaint with regard to location of suit 'C' schedule property, certainly, there is dispute with regard to identity of suit 'C' schedule property. The Trial Court also said that the present



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application seeking appointment of Advocate Commissioner to measure the suit property with the help of Surveyor was filed after five years from the date of filing of the suit. Mere delay is not a ground to reject the prayer, when measurement of the suit property with reference to the title document, will help the Court to decide the dispute in a comprehensive way. Hence, the impugned order passed by the Court below is set aside.

5. Accordingly, the Civil Revision Petition is allowed. The Trial Court is directed to appoint an Advocate Commissioner to measure the suit property and also the property of the defendants with reference to the title deeds of respective parties with the help of qualified Surveyor and file a detailed report before the Court below. No costs. Consequently, the connected civil miscellaneous petition is closed.

22.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

WEB COPY

- 1.The Sub-Court, Ranipet,
Vellore District.
- 2.The Sub-Registrar,
Arcot, Sub Registrar Office
Arcot Taluk, Vellore District.



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S.SOUNTHAR, J.

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