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C.R.P.No.1182 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1182 of 2020

and

C.M.P.No.6378 of 2020

Mr.P.Selvarasu @ Selvarajan

... Petitioner

Vs.

1.K.Dhanabakkiam (died)

2.M.Kalyanasundaram

3.K.Jeevanantham

4.Mrs.Sagunthala

5.Mrs.Indhira Gandhi

(Sole respondent died, R2 to R5 are brought on

record as LR's of the deceased sole respondent

viz., K.Dhanabakkiam vide court order dated 16.11.2023

made in CMP.No.1524/2023 in CRP.No.1182/2020

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India,praying to set aside the order dated 09.01.2020 in I.A.No.147 of 2019 in O.S.No.10 of 2016 on the file of the Sub-Ordinate Judge, Mannargudi.



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For Petitioner	: Mr.A.V.Arun
For Respondents	: R1-Died
	R2 to R5- not ready in notice

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking scrapping of the report filed by the earlier Advocate Commissioner and for appointment of fresh Advocate Commissioner to measure the suit property with the help of Surveyor .

2. The petitioner herein filed a suit for declaration of title and permanent injunction. Pending suit, earlier an Advocate Commissioner was appointed. He measured the property with the help of Surveyor and filed his report. The petitioner herein filed objection to the report submitted by the Advocate Commissioner stating that Advocate Commissioner failed to measure the property properly by taking into consideration the width of the road lying on the North and South of the property. Now, the present application has been filed by the petitioner to scrap the earlier report and appoint fresh Advocate Commissioner to measure the suit property afresh with the help of Surveyor.

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3. The learned counsel for the petitioner vehemently contended that earlier Commissioner failed to measure the suit property properly by taking into consideration the width of the road lying on the North and South of the suit property and therefore, the same is deserved to be scrapped.

4. The Trial Court taking into consideration the objection filed by the petitioner to the earlier Advocate Commissioner's report observed that petitioner can very well examine the Advocate Commissioner and clarify discrepancies in this report and hence, prayer for scrapping of report need not be considered.

5. As rightly pointed out by the Trial Court, the petitioner has filed his objection to the Advocate Commissioner's report. It is also open to the petitioner to examine the Commissioner and seek clarification from him with regard to the objection raised by him. If ultimately the Court finds, after examination of Commissioner, re-measurement of the property is necessary, it is always open to the Court to direct the Advocate Commissioner to measure



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the property afresh. Hence, the petitioner has not made out any case for scrapping of earlier report filed by the Advocate Commissioner. I do not find any error in the order passed by the Trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

Index : Yes / No
Internet : Yes / No
nr

To
The learned Sub-Ordinate Judge, Mannargudi.



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S.SOUNTHAR, J.

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