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C.R.P.No.2364 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2364 of 2024
and C.M.P.No.12379 of 2024

The Secretary
Gobi Arts and Science College
Having office at Karattadipalayam
Gobichettipalayam Taluk
Lakkampatti Village

... Petitioner

-Vs-

- 1.Subramaniam
- 2.State of Tamil Nadu represented by
its District Collector, Sampath Nagar
Erode-11.
- 3.Muthulingam
Assistant Engineer, TWAD having
office at Vaikal Road, Gobichettipalayam.
- 4.Velumani, Chairman
Town Panchayat Board
Office at Velankattupalayam Road
- 5.Ramesh @ Bhavanikarar
Contractor, C/o Velumani
Chairman, Town Panchayat Road
Velankattupalayam Road
Lakkampatti Village, Gobi Taluk.
- 6.The Executive Officer
Lakkampatti Town Panchayat Board
Lakkampatti, Velankattupalayam Road
Lakkampatti Village, Gobi Taluk.



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7. The Division Executing Engineer
Tamil Nadu Highways Department
Gobichettipalayam.

8. K.R.Moorthi

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 21.02.2024 made in I.A.No.1 of 2023 in I.A.No.2190 of 2018 in A.S.No.43 of 2018 on the file of the learned III Additional District Judge, Erode at Gobichettipalayam.

For Petitioner : Mr.V.Anandhamurthy

ORDER

This Civil Revision Petition arises against the order of the III Additional District Judge, Erode at Gobichettipalayam in I.A.No.1 of 2023 in I.A.No.2190 of 2018 in A.S.No.43 of 2018.

2. The plaintiff, who is the first respondent herein, presented O.S.No.80 of 2004 seeking a relief of declaration, permanent injunction and mandatory injunction. He based his claim on Exs.A1 to A3, which were marked in the trial Court during the course of trial. The suit came to be dismissed. Aggrieved by the same, a regular appeal was preferred in A.S.No.43 of 2018.

3. Pending the appeal, the plaintiff wanted appointment of an advocate commissioner to visit the suit schedule mentioned property and measure it in terms



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of Exs.A1 to A3 along with the revenue records. The original advocate commissioner who was appointed viz., Mr.K.S.Bhaskaran, has subsequently been appointed as Government Pleader, and Government being a defendant in the suit, he requested for return of the warrant. Subsequently, another advocate commissioner by name Ms.A.Revathi was appointed, who visited the suit property and submitted a report on 30.03.2023.

4. In terms of the warrant, she should have measured the property under Ex.A1 and Ex.A3 separately and should have, for the purpose of identification of the property, referred to the revenue records. Unfortunately, the report that has been filed in Page 117 of the typed set of papers, is laconic and non-speaking. It does not show that the advocate commissioner had referred to the documents under Exs.A1 to A3.

5. Being unsatisfied with the report of the Advocate Commissioner, a fresh application was filed for directing the advocate commissioner to revisit the property and to submit a new report. The learned III Additional District Judge, Gobichettipalayam felt that the report is not corresponding with the warrant and directed the advocate commissioner to revisit the property. However, while doing so, the learned Judge has appointed a fresh advocate commissioner.



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6. Appointment of a fresh advocate commissioner to measure the property without setting aside the report of the previous advocate commissioner cannot be said to be in accordance with law. Yet, the Judge has felt that the previous advocate commissioner has not measured the property in terms of the warrant issued and as per the revenue records.

7. Therefore, while confirming the order of the III Additional District Judge at Gobichettipalayam in I.A.No.1 of 2023 in I.A.No.2190 of 2018 in A.S.No.43 of 2018 dated 21.02.2024, I merely direct the learned Judge to issue warrant to the advocate commissioner to revisit the property, in terms of Para 7 of the order impugned before me, to Advocate A.Revathi, B.A.B.L., having registered Enrolment No.MS/1012/2011 instead of Mr.V.A.Ganesh as found in the order. In all other respects, the order stands confirmed. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

III Additional District Judge,
Gobichettipalayam.



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V. LAKSHMINARAYANAN, J.

KST

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