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C.R.P.No.2255 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2255 of 2024

and

C.M.P.No.11887 of 2024

Turgot Greycy Rogette

Rep. by her Power of Attorney

Emmanuel Djeganadin

... Petitioner

Vs.

Shri Priya

... Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the order dated 11.03.2024 passed in I.A.No.1094 of 2023 in O.S.No.18 of 2021 on the file of III Additional District Court, Puducherry and allow the Civil Revision Petition.

For Petitioner : Mr.K.Sasindran

For Respondent : Mr.J.Kumaran

for M/s.V.Moorthi



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ORDER

The petitioner/plaintiff in O.S.No.18 of 2021 had filed I.A.No.1094 of 2023 seeking to appoint an Advocate Commissioner to visit the suit property to identify and measure the suit property with the assistance of a competent surveyor, with reference to help of the title deeds of the parties.

This I.A. was dismissed on 11.03.2024, against which, the present petition.

2.The contention of the learned counsel for petitioner is that the property mentioned in the schedule to the plaint belongs to the petitioner vide settlement deed dated 31.10.2019 registered as Document No.23146 of 2019. Originally, the schedule mentioned property is a part of a larger extent (Plot Nos.21 & 22) belonged to the petitioner's husband vide sale deed dated 06.02.1995, registered as Document No.341 of 1995. The petitioner's husband sold a portion of the larger extent approximately 1800 sq.ft. (Plot No.21) in favour of one G.Radharukumani vide sale deed dated 31.10.2019



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and settled the remaining portion of the larger extent approximately 1800 sq.ft. (Plot No.22) in favour of the petitioner vide settlement deed dated 31.10.2019. On the strength of the settlement deed dated 31.10.2019, the petitioner had become the absolute owner of the schedule mentioned property.

3.The petitioner is residing in France and she could not maintain the property. Hence, she came to Pondicherry and executed a Power of Attorney dated 04.11.2019 in favour of one Emmanuel Djeganadin. During November, 2020, when the property was inspected it was found that the respondent squatted on the property. On enquiry, it came to know that the respondent put up a hut and encroached the property. Thereafter the petitioner lodged a police complaint and filed the present suit. The respondent is also claiming right and title over the suit property. Hence, it is necessary to identify and measure the suit property with reference to the documents relied on by all the parties to the above suit with the help of a surveyor. Hence, the



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petitioner filed I.A.No.1094 of 2023 to appoint an Advocate Commissioner to visit, identify and measure the suit property and the same was dismissed by the trial Court, against which, the present revision has been filed.

4.The learned counsel appearing for the respondent submitted that the petitioner's husband Jesse Pascal @ Zenon Pascal, earlier filed a suit in O.S.No.1002 of 2010 for bare injunction before the learned I Additional District Munsif, Puducherry seeking a decree for declaration that the petitioner/plaintiff is the absolute owner of the suit property and for permanent injunction restraining the respondent from claiming any right or interfering with the petitioner's peaceful possession. After full fledged trial, the suit was dismissed on 04.08.2016. Thereafter, no appeal filed and the suit attained finality. Suppressing the said fact, the petitioner filed the present suit and the suit is at the stage of arguments. At this stage, to protract the proceedings, the I.A. has been filed. The trial Court considered the same and dismissed the petition by a detailed and a reasoned order. The petitioner's



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attempt is only to further drag on the proceedings.
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5.Considering the submissions made and on perusal of the material, it is seen that the trial Court order is a detailed and well reasoned one and needs no interference. In view of the same, this Court is not inclined to entertain this petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2024

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral Citation : Yes/No
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To

The III Additional District Judge,
Puducherry.



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M.NIRMAL KUMAR, J.

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