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C.R.P.(NPD).No.1896 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1896 of 2020
and C.M.P.No.11509 of 2020

Kaliyamoorthy

... Petitioner

vs

1.Selvakumar

2.Mahalingam

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Order and Decree dated 11.03.2020 made in I.A.No. 10 of 2019 in A.S.No. 47 of 2016, on the file of learned Principal Subordinate Judge, Tindivanam.

For Petitioner : Mr.P.Dinesh Kumar
for D.Ravichander

For R2 : Mrs.AL.Gandhimathi
Senior Advocate

For R1 : Left

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking appointment of Advocate Commissioner to measure the suit property and file a report and plan.



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2. The petitioner herein filed a suit for declaration of title and injunction. It is the case of the petitioner that at the time of granting patta in favour of respondents/defendants, a portion of the property belonged to him was also added in the patta granted in favour of the respondents and based on the same, the respondents attempted to interfere with his possession.

3. Before the Trial Court, an Advocate Commissioner was appointed and he visited the property along with Surveyor and his report and plan were marked as Exs.C1 and C2. The Trial Court after perusal of the Advocate Commissioner's report and plan marked as Exs.C1 and C2, dismissed the suit filed by the petitioner herein. Aggrieved by the same, the petitioner preferred first appeal and pending appeal, the present application has been filed by the petitioner seeking appointment of Advocate Commissioner again.

4. In the affidavit filed in support of the present application, the petitioner failed to mention anything about the Advocate Commissioner's report and plan filed before the Trial Court. Further, if the petitioner is not satisfied with the report and plan filed by the Advocate Commissioner before



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the Trial Court, he ought to have filed an objection before the Trial Court for reissue of warrant and for the reasons best known to him, the petitioner failed to take any steps before the Trial Court seeking reissue of warrant to the Advocate Commissioner. Therefore, the present application filed by the revision petitioner seeking appointment of Advocate Commissioner again in the appellate stage is not at all justified and therefore, the same is liable to be dismissed as devoid of merits. Hence, the First Appellate Court rightly dismissed the same. I do not find any irregularity or illegality in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition stands dismissed. No Costs.

Consequently, the connected civil miscellaneous petition is closed.

09.01.2024

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



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S.SOUNTHAR, J.

dm

To

The Principal Subordinate Judge,
Tindivanam.

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