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C.R.P. (PD) .No.4453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4453 of 2024
and C.M.P.No.24814 of 2024

1.Mani

2.Palani

Saravanan (died)

3.Sankar

4.Punniyamoorthi

5.Nagarajan

6.Lakshmi

.. Petitioners

Vs.

Pichai Sthabathi @ Pichandi

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow this Civil Revision Petition and set aside the fair and decreetal order passed in I.A.No.3 of 2022 in O.S.No.32 of 2021 dated 04.10.2024 passed by the Additional Subordinate Judge, Tiruvannamalai.

For Petitioners : Mr.K.Venkateswaran



ORDER

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This civil revision petition arises against the order passed by the learned Additional Subordinate Judge at Tiruvannamalai, in I.A.No.3 of 2022 in O.S.No.32 of 2021 dated 04.10.2024.

2.O.S.No.32 of 2021 is a suit for declaration of title and for permanent injunction. The long and short case of the plaintiff is that the predecessor in title of defendants 1 to 7 namely one Annapoorani Ammal was the owner of the B schedule property that was entirely acquired by the National Highways Authority of India for laying of the highways. Hence, they do not have any right over the suit property.

3.The mother of defendants 1 to 7, namely, Annapoorani Ammal had purchased the property and was in enjoyment of the same. Subsequently, the National Highways Authority of India acquired the property and laid out National Highways on the entire extent that was in her possession and occupation. The plaintiff, who claims through a will executed by his mother Tmt.Mannammal, as early as in the year 1988, pleads that a portion of his



property was also acquired, but the Government did not acquire the entire extent, left apart an extent of 6 cents.

4.The defendants entered appearance and filed a detailed written statement. According to them, the Government did not acquire the entire extent, but had left out 762 sq.ft of their property which the plaintiff intends to grab by way of the suit. Since, there is a dispute over an extent of 6 cents post acquisition, the plaintiff filed an application under Order XXVI Rule 9 of Code of Civil Procedure, 1908, for appointment of Advocate Commissioner to visit the suit schedule mentioned property and measure not only the suit schedule property, but the other areas of the property. The learned Judge issued notice in the application, received a counter and allowed the same. Hence, this revision.

5.I heard Mr.K.Venkateswaran for the civil revision petitioner.

6.Mr.K.Venkateswaran leads me through various revenue records including the certificates that have been issued by the Village Administrative Officer and Tahsildar to plead that even after acquisition, certain holdings



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have been left apart by the acquisition authorities in the hands of the defendants 1 to 7. He states that the plaintiff under total misunderstanding of the extent that is available to the defendants, has presented the suit. He points out that before the learned Trial Judge, these documents are presented. But the learned Judge did not properly apply his mind as to those documents and erred in appointing the Advocate Commissioner. Hence, he pleads for revising the order.

7.I have carefully considered the arguments of Mr.K.Venkateswaran. I have gone through the records.

8.There is no dispute that both the Mannammal and Annapoorani Ammal had purchased the property and were in enjoyment and possession of the same. The plaintiff pleads that the entire extent of Annapoorani Ammal was acquired, whereas, the defendants pleads that the acquisition did not cover the entire extent of land which was held by Annapoorani Ammal. This shows that the Court at the time of trial would have decided the issue, whether the entire extent of Annapoorani Ammal had been acquired by the Government or something had been left out to be enjoyed by the defendants 1



to 7 as alleged by them. If that be the situation, to elucidate this matter in issue, the Court cannot merely proceed on the basis of revenue records. It requires identification and localization of the property that had been acquired as well as properties that had been held by Mannammal and Annapoorani Ammal.

9.The plea that revenue records and revenue certificates have been given in the name of defendants are that matters which have to be decided at the time of trial. There is absolutely no necessity to analyze them in detail at the time of appointment of Advocate Commissioner. Even if the revenue records are issued by the highest authority of the Revenue Department available in the State, it continues to be only a revenue record. It will not confer title on the person whose name is found in the record. It falls on the duty of the Civil Court to decide and declare the title. The revenue records might assist the Court, but that by themselves are not conclusive.

10.Further, I am not aware under which provision of law that a Village Administrative Officer or a Tahsildar is entitled to issue the certificate in favour of one party or against another. They are entitled to provide certified



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copy of extracts of the records maintained by them. They are not entitled to certify as to the extent of the properties that are maintained by the parties. That is the job of the Civil Court and it cannot be surrendered to the revenue authorities. Since, there is a dispute in the extent as well as in the identification of the property post acquisition by the National Highways Authority of India, I did not find any error in the order of the learned Judge in appointing the Advocate Commissioner. It is open to the petitioners to file their objection to the report in case, if they encounter any difficulties.

11.With the above observation, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

07.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The Additional Subordinate Judge, Tiruvannamalai.



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V.LAKSHMINARAYANAN, J.

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