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C.R.P. (PD) .No.4598 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4598 of 2024
and C.M.P.No.25715 of 2024

P.C.Shanmugam

.. Petitioner

Vs.

1.N.Chenniyappan

2.The District Collector,
Erode District, Perundurai Road,
Erode – 638 011.

3.The Revenue Divisional Officer,
Erode District,
Brough Road,
Erode – 638 001.

4.The Tahsildar,
Taluk Office,
Perundurai – 638 052.

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 20.08.2023 passed in I.A.No.3 of 2022 in O.S.No.184 of 2023 on the file of II Additional District Munsif Court, Erode, and allow the Civil Revision Petition.



For Petitioner : Mr.R.P.Ruban Chakravarthy

ORDER

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This Civil Revision Petition arises against the order passed by the learned II Additional District Munsif at Erode, in I.A.No.3 of 2022, in O.S.No.184 of 2023, dated 20.08.2024.

2.O.S.No.184 of 2023 is a suit originally presented before the District Munsif Court at Perundurai. The relief sought for in the said suit are as follows:

“a.For specifying and demarcating the boundary line between the plaint property and property of the 1st defendant pertaining to the respective share of P.A.2.20 ½ each in the R.S.No.25/2C1B taking into consideration of extent in R.S.No.25/2A2 which is the portion of the 1st defendant's property and 25/2C1A, 25/2A1 which are Government lands abutting the properties of the plaintiff and the 1st defendant on the North,

b.For permanent injunction restraining the 1st defendant and his men, agents, assigns etc. from trespassing upon the plaint's schedule property and in any other manner interfering with peaceful possession and enjoyment of the same by the



plaintiff.”

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3.The case of the plaintiff is that one Karupanna Gounder had sold the properties to the plaintiff and 1st defendant on 18.04.1991. On 02.09.1999, the plaintiff had sold an extend of 0.40.0 hec to the 1st defendant. Further, the plaintiff admitted that on the very same day, Karupanna Gounder sold an other extent of 0.22 ½ cent to the 1st defendant. According to the plaintiff, on 03.09.1999, Karupanna Gounder had sold another extent of 2.20 ½ acre to him.

4.Due to disputes on the boundaries, the parties approached the police and since, it was a civil dispute, the complaint was not taken on file. Thereafter, the plaintiff approached the Revenue Department for surveying and demarcating the property. At the time of demarcation, instead of surveying the entire extent in Survey No.25/2, the Surveyor surveyed only a portion of the plaintiff's land. On account of this fact, instead of surveying the 2.20 ½ acre of the plaintiff, the Revenue Department stated that the plaintiff is entitled to 2.08 acres. Hence, the suit for the aforesaid reliefs.

5.Along with the suit, the plaintiff moved an application under Order



XXVI Rule 9 and Section 151 of the Code of Civil Procedure, 1908, for appointment of Advocate Commissioner to visit the suit property and to note down the physical features and to measure the suit property with the help of a Surveyor. This application was received as I.A.No.3 of 2022. Even after the transfer to the file of the District Munsif Court at Erode, the application held the very same number. To the said application, the civil revision petitioner / first defendant filed a detailed counter and opposed the same. The learned Trial Judge after a detailed analysis of the affidavit and petition, as well as the several documents which had been produced by the parties, decided to appoint an Advocate Commissioner to note down the physical features and to submit a report. Hence, this revision is at the instance of the 1st defendant.

6.I heard Mr.R.P.Ruban Chakravarthy for the civil revision petitioner.

7.Mr.R.P.Ruban Chakravarthy invites my attention to the plaint and points out as early as on 05.07.2021, the Revenue Department and the Surveyor had demarcated the property and had given a report. Therefore, he pleads to seek for a survey by an Advocate Commissioner is absolutely unnecessary. He pleads that the survey was conducted pursuant to a direction

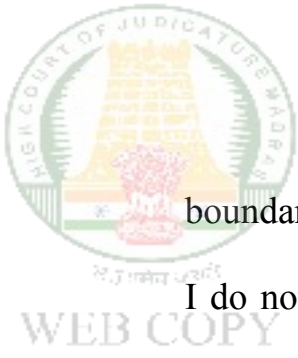


given by this Court in W.P.No.5683 of 2021 and therefore, the learned District Munsif ought not to have appointed an Advocate Commissioner.

8.I have carefully considered the submissions of Mr.R.P.Ruban Chakravarthy.

9.Even if the highest authority of the Revenue Department available in the State were to survey the land and to submit a report, it continues only to be a revenue record. Such revenue records can neither a bar nor take away the title. Such records does not bind even half a Munsif. It is the duty of the Civil Court, when there is a dispute in identification and demarcation of a property, to try the proceedings as a civil dispute. It requires exhibiting of title deeds of the plaintiff and defendants to show their respective holdings.

10.In such suit, there is a necessity for appointment of an Advocate Commissioner, since the Court cannot go, measure and demarcate the same by itself. An Advocate Commissioner is the “eye and ear” of the Court. The learned District Munsif, has felt that, by appointing an Advocate Commissioner, it will help him to elucidate the matter in issue, namely, the



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boundary between the plaintiff and the 1st defendant. That being the situation,
I do not find any error in the order passed by the learned District Munsif at
Perundurai, Erode District.

11.In the result, this Civil Revision Petition stands dismissed.
Consequently, the connected Miscellaneous Petition is closed. No costs.

18.11.2024

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

To



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Erode.

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V.LAKSHMINARAYANAN, J.

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