



C.R.P(MD)No.1672 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1672 of 2024

and

C.M.P(MD).No.9780 of 2024

Igin Rani

... Petitioner

Vs.

1.Prabhu

2.Sakkaravarthi

3.Fletcher

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order in I.A.No.2 of 2020 in O.S.No.129 of 2020 passed by the Principal District Munsif Court, Padmanabhapuram dated 21.02.2024 and set aside the same.

For Petitioners

: Mr.R.Rajesh

ORDER

This civil revision petition filed against the fair and decreetal order dated 21.02.2023 made in I.A.No.2 of 2020 in O.S.No.129 of 2020. By the said



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Interlocutory Application, the petitioner has prayed to appoint an Advocate Commissioner to inspect the suit property and to measure the same and to file a report. The trial Court has dismissed the same, aggrieved by which, the present civil revision petition is filed.

2. The learned counsel for the petitioner would submit that if only the Advocate Commissioner with the help of the surveyor surveys the property, the dispute can be resolved. Even though the suit is only for an injunction, since the matters are involving the question of title, the Commissioner report is necessary. Therefore, the reasoning of the trial Court that the suit is only for a bare injunction and possession cannot be proved by way of appointment of Commissioner is incorrect.

3. I have considered the said submission of the learned counsel for the petitioner and perused the material records of the case.

4. It can be seen that the suit is filed by the plaintiff by claiming that the property originally belonging to one Jeyaslin Anusha as per settlement deed in Doc.No.1641/ 2014. The said Jayaslin Anusha executed a sale deed in favour of Charlees vide Doc.No.572/2019. Charlees executed a sale deed in favour of the



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plaintiff vide Doc.No.1212/ 2019 and the defendants, who are only the adjacent owners without any right, title or interest, are interfering with the property and hence the suit.

5. In the written statement filed it is the claim of the defendants that the plaint schedule property originally belonged to one Swaminathan, Pakianathan, Paramananthan and Muthuswami. After the death of the Swaminathan, the property was inherited by his sons namely Samuel Gnanamony, Sinkarayan, Thankappan and Rathinam. The said Samuel and his brothers executed a sale deed dated 16.09.1968 in favour of one James Nadar, which included the suit property. The defendants one and two are his grandsons. Therefore, the plaintiff does not have any right, title or interest over the suit property.

6. In view thereof, it can be seen that there is absolutely no dispute with reference to any boundary or physical features of the property. The question is one with reference to the title, which has to be proved by the parties by letting in appropriate documentary and oral evidence in support of their claim.

7. In view thereof, I am of the view that no purpose will be served by appointing an Advocate Commissioner to inspect the suit property, accordingly,



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finding no merits, the Civil Revision Petition is dismissed. No cost.

Consequently, connected Miscellaneous Petition is also dismissed.

29.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To

1.The Principal District Munsif, Padmanabhapuram.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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