



C.R.P(MD)No.192 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.192 of 2024
and C.M.P(MD)No.828 of 2024

Thavasikannu Thevar ...Petitioner/Petitioner/Plaintiff

Vs.

Ayyadhurai ...Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records pertaining to the Ex and Fair order dated 15.09.2023 passed in I.A.No.2 of 2023 in O.S.NO. 152 of 2015 by the Additional District Munsif, Sankarankoil and to set-aside the same.

For Petitioner : Mr.R.Rajamohan

ORDER

This revision is preferred to set aside the order dated 15.09.2023 passed in I.A.No.2 of 2023 in O.S.NO.152 of 2015 by



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the Additional District Munsif, Sankarankoil and to set-aside the same.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3.The suit in O.S.No.152 of 2015 was filed by the plaintiff herein seeking the relief of declaration, recovery of possession, consequential injunction and mandatory injunction etc. The defendants have filed their written statement stating that he has purchased the property from one Palanichamy, the vendor of the plaintiff. According to the learned counsel for the revision petitioner, there is some discrepancy with reference to the description of property both in the plaint and the sale deed. On that ground, he filed an application to appoint an Advocate Commissioner to measure the property and file report. The Commissioner was also appointed and the Commissioner visited the property and at that time, submitted a report stating that since there is sub division and



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he cannot undertake the measurement. Objection was filed by the petitioner over that. Seeking re-issuance of Commissioner warrant yet another application was filed in I.A.No.2 of 2023 and that was dismissed by the trial court observing that in the earlier Commissioner report itself it is stated that the distance between the plaintiff's property and the respondent's property is 31 feet an not 61 feet as mentioned by the plaintiff. Apart from this, it is stated that on that ground, the property could not be identified because of the recitals in the sale deeds. But the four boundaries have been carefully identified and so there is no question of re-issuance of Commissioner. Since the issue arises only with regard to the extent, that can be resolved in the suit on the basis of the evidence to be adduced by the parties.

4. The learned counsel for the petitioner would submit that because of the memo filed by the concerned surveyor, measurement could not be taken and he prays to set aside the order of the trial court.



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5. On hearing the above submission, this Court is of the view that after letting evidence by both parties if any discrepancy arises between the evidence and the Commissioner's report in that event the court can re-issue the Commissioner's warrant to bring on record the correct physical features available in the ground.

6. The abovesaid exercise may be undertaken by the court on its own motion or at the instance of any of the parties.

7. With the above observation, this revision is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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1. The Additional District Munsif, Sankarankoil
2. The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J.

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