



C.R.P(MD)No.28 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.11.2024**

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.28 of 2024
and
C.M.P(MD)No.210 of 2024

Nadaraj

... Petitioner

Vs.

Ponnusamy

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order, dated 02.11.2023 passed in I.A.No.386 of 2023 in O.S.No.59 of 2014 on the file of the District Munsif Court, Oddanchatram and pass such further or other ordres as this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.S.Rajasekar

ORDER

This Civil Revision Petition is preferred against the order passed in I.A.No.386 of 2023 in O.S.No.59 of 2014, dated 02.11.2023. The suit in O.S.No.59 of 2014 on the file of the District Munsif Court, Oddanchatram is



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filed by the respondent / plaintiff for partition. During pendency of the above suit, the respondent / plaintiff has taken out an application in I.A.No.531 of 2018 for appointment of Advocate Commissioner and the same was ordered. Accordingly, the Advocate Commissioner has inspected the suit property and filed his report. The petitioner herein has also filed his objections to the said report. While so, the petitioner has taken out another application in I.A.No.386 of 2023 to scrap the report of the Advocate Commissioner by stating that the report of the Advocate Commissioner is beyond the scope of his warrant. Therefore, the same has to be scrapped. The learned Trial judge after considering the submissions made on either side, dismissed the above application stating that there is nothing to show that the report of the Advocate Commissioner cannot be relied upon. Aggrieved by this, the present revision petition is preferred.

2. The learned Counsel appearing for the revision petitioner submits that a perusal of the Advocate Commissioner report would indicate that the measurement was not properly made as per the revenue records. Apart from that, the Advocate Commissioner without properly identifying the survey number has given an erroneous report and in fact S.No.681 does not belong to the petitioner's father. It is further submitted that even the physical features of



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the property was not properly noted by the Advocate Commissioner and the existence of water source and pipe lines were not marked by the Advocate Commissioner and therefore, the same could be rectified only by calling for supplementary report, which is necessary for settling the issue in dispute.

3.Per contra, the learned Counsel appearing for the respondent would submit that the report of the Advocate Commissioner is, within the scope of the warrant and therefore, the order passed by the trial Court requires no interference.

4.I have carefully considered the submission made on either side and perused the materials available on records.

5.On perusal of the impugned order passed by the trial Court, it is clearly mentioned that there is nothing to suggest the Advocate Commissioner report which is not satisfactory. Even in the support affidavit of the revision petition only vague statement is made. It is simply stated that the physical features of the property was not properly noted by the Advocate Commissioner. Moreover, the petitioner could very well file his objections to the Advocate Commissioner Report and an enquiry could be conducted by the trial Court with regard to



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admissibility and reliability of the said report. If the trial Court finds that the report is not satisfactory, it can either ask for supplementary report or scrap the earlier report and appoint a fresh Commissioner.

6. Accordingly, this revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

05.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The District Munsif Court,
Oddanchatram.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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05.11.2024