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C.R.P.No.93 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

C.R.P.No.93 of 2024

Chakravarthi,
S/o. Kuppusamy Padyachi

...Petitioner

Vs

1.Vasuki,
W/o. Jaisankar

2.Velu,
S/o.Rajulu Padayachi

3.Bavani
W/o.Mayandi

4.Murugan
S/o. Anbalagan

...Respondents

PRAYER: Revision filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order passed in I.A.No.77 of 2023 in O.S.No.218 of 2013 dated 20.11.2023 on the file of the learned Additional District Munsif, Chidambaram and to reissue the warrant to the same Commissioner by allowing this revision.

For Petitioner(s) : Mr.A.Muthukumar

For Respondent(s): Mr.T.Sundaravadanam



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ORDER

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This Civil Revision Petition is directed against the order dated 20.11.2023 passed by the learned Additional District Munsif, Chidambaram, dismissing the application filed by the petitioner seeking re-issuance of warrant to the Advocate Commissioner for measuring the suit property with reference to the title deeds of the parties.

2.The petitioner is the plaintiff in O.S.No.218 of 2013 and has instituted the suit for bare injunction in respect of the property situated in Old Survey No.87/19, New Survey No.87/19-A, Valaiyamadevi Melpathi Village. The respondents resisted the suit by filing a Written Statement.

3.Initially, an Advocate Commissioner was appointed at the instance of the petitioner to note down the physical features of the suit property and a report was filed. Not being satisfied with the said report, the respondents filed I.A.No.148 of 2021 seeking appointment of a fresh Advocate Commissioner to measure both the plaintiff's and defendants' properties, totalling an extent of 19 cents, with the assistance of a qualified Surveyor. The said application was allowed and the Advocate Commissioner measured the properties with the help of a Surveyor and submitted a report. Contending that the measurements were not carried out with proper reference to the title deeds of the respective parties,



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the petitioner filed I.A.No.77 of 2023 seeking re-issuance of warrant to the Advocate Commissioner for fresh measurement with reference to the title deeds. The Trial Court dismissed the said application, which has given rise to the present Civil Revision Petition.

4.The learned counsel appearing for the revision petitioner would submit that if the suit property is measured with reference to the respective title deeds, the Court would be in a position to effectively adjudicate the controversies involved in the suit, as mere physical measurement of the property, without reference to the title documents, would not assist in resolving the dispute.

5.The learned counsel appearing for the respondents would submit that the suit being one for bare injunction, the Advocate Commissioner is not competent to render any finding with regard to possession, and therefore, the application filed by the petitioner seeking re-issuance of warrant is wholly unnecessary.

6.In the case on hand, the Advocate Commissioner was appointed for the second time at the instance of the respondents themselves to measure the suit property. Therefore, it is not open to the respondents to object to the appointment of an Advocate Commissioner at this stage.



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7.It is not in dispute that the petitioner and the respondents are owners of the adjacent properties. A perusal of the report filed by the Advocate Commissioner indicates that the measurement was not comprehensively carried out with reference to the respective title deeds of the parties. If the properties of both the plaintiff and the defendants are measured and properly demarcated with reference to their respective title deeds, the Advocate Commissioner's report would assist the Court in effectively adjudicating the boundary dispute between neighbouring landowners. Unless the properties of the parties are earmarked with reference to their title deeds, any decision or finding rendered at the final hearing of the suit may not be workable.

8.In view of the aforesaid circumstances, this Court is of the considered view that a comprehensive measurement of the properties with reference to the respective title deeds is necessary for proper adjudication of the dispute. Accordingly, this Civil Revision Petition is allowed. The Trial Court is directed to re-issue the warrant to the same Advocate Commissioner, directing him to measure the properties of the plaintiff and the defendants with reference to their respective title deeds and to file a fresh report. The Advocate Commissioner shall complete the exercise and submit the report within a period of four weeks from the date of receipt of a copy of this order.



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9. With the above directions, this Civil Revision Petition stands disposed of. Considering the fact that the suit is of the year 2013, the Trial Court is directed to dispose of the suit as expeditiously as possible, in accordance with law. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
mps

To

1. The Additional District Munsif,
Chidambaram.

2. The Section Officer,
V.R. Section,
Madras High Court.



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S.SOUNTHAR, J.

mps

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