



C.R.P.No.518 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.518 of 2024
and C.M.P.No.2425 of 2024

Subramamni

... Petitioner

VS.

Velumani

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 29.09.2023 made in I.A.No.141 of 2023 in O.S.No.101 of 2014 on the file of the Principal Subordinate Judge, Tindivanam and to allow the Civil Revision Petition.

For Petitioner : Mr.R.P.Ruban Chakravarthy
for S.Kaithamalai Kumaran

For Respondent :Mr.R.Agilesh
for M/s.T.Dhanasekaran

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court, dismissing the application filed by the petitioner seeking an appointment of Advocate Commissioner.

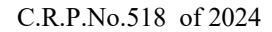


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2. The petitioner herein filed a suit seeking declaration of title regarding suit 'B' schedule property and for consequential injunction restraining the respondent/defendant from interfering with the possession. The petitioner also sought for mandatory injunction to remove the construction put up by the respondent in the suit 'C' schedule property and recovery of vacant possession thereof.

3. Pending suit, the petitioner filed an application seeking appointment of Advocate Commissioner, the said application was dismissed by the trial Court. Aggrieved by the same, the petitioner preferred an appeal before this Court in CRP.No.2057 of 2018 and the said revision was allowed by this Court. Pursuant to the said order, the Advocate Commissioner visited the property and the property could not be measured as the revenue documents stood in some other persons name with new Sub Division numbers. Thereafter, the petitioner filed amendment application to correct the discrepancy in survey number. Based on the said amendment, the petitioner filed another application seeking appointment of Advocate Commissioner to measure the property with the help of Surveyor and to note down the physical features and the said application was dismissed by the



trial Court. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that the similar application for appointment of Advocate Commissioner was allowed by this Court earlier and the Advocate Commissioner could not execute the warrant as there were discrepancy in survey numbers. Now the petitioner has filed the petition giving details of the petitioner's property and the property sold to the defendant and therefore, the Advocate Commissioner can be appointed to note down the physical features.

5. It is seen from the pleadings that the suit 'A' schedule property was originally purchased by the petitioner from one Ganesan under Document No.1, dated 27.02.1991. Later the portion of the 'A' schedule property was sold to the defendant under document dated 06.06.1996.

6. It is the specific case of the petitioner that he retained property on immediate north of road and only property on the further north with east-west measurement of 66 feet and north-south measurement of 70 feet was sold to the defendant. It is further stated that the defendant entered



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portion of the property retained by the plaintiff and put up construction and the same was shown separately. In the draft plan produced by the plaintiff, the property allegedly sold by him has been shown as “ABEF” which lies on north portion. The property alleged retained by plaintiff has been shown as “ABCD”. The encroached property has been shown as “AGHD” and the same is situated on the north of ‘CD’ line. The property allegedly encroached by the defendant is shown as ‘AGHD’, which is a portion of ‘ABCD’.

7. A perusal of the plaint document No.5 would indicate that the petitioner sold the property on the north of the road to the defendant. Therefore, when the Advocate Commissioner is appointed to measure the property with reference to the title documents of the parties, certainly ‘ABCD’ portion, which is allegedly retained by the plaintiff will also be treated as the property of the defendant and a report would be filed only to that effect. In such circumstances, the appointment of Advocate Commissioner to locate the property based on the boundaries mentioned in the title document will not resolve the dispute between the parties.



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8. In the sale deed executed by plaintiff in favour of defendant [plaintiff document No.5] the southern boundary of subject matter of sale had been shown as “North of Road”. Hence, the property allegedly retained by plaintiff on immediate north of road has not been shown in the boundary. Hence, appointment of Advocate Commissioner to measure the suit property with reference to title document will not help the petitioner to locate the property allegedly retained by him. Hence, appointment of Advocate Commissioner will not help the Court to resolve the dispute in the suit.

9. In view of the above, I do not find any error in the impugned order passed by the trial court, accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Principal Subordinate Judge,
Tindivanam.

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S.SOUNTHAR, J.

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