

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. S. KAVIPRIYA, B.A., LLB.,
District Munsif, Tiruttani

Dated this Wednesday the 24th Day of March 2021

IA.No.1 OF 2019 IN OS. No.97 OF 2014

...

1. K. Prabhavathi

2. K.M. Santhoshkumar

3. Yogalakshmi

...Petitioners/ Defendants

/Versus/

A.M. Sidambram

... Respondent / Plaintiff

This petition came up before me for final hearing on 16.03.2021 in the presence of M/s. N. Sumathy, Advocate for petitioners and Mr.N.G. Anbalagan, Advocate for respondent and upon hearing both side and having stood over for consideration till this day, this court delivered the following:-

ORDER

This petition is filed under order 26 rule 9 of CPC to re-issue of warrant to the Advocate Commissioner to inspect the petition/suit schedule house site and to fix boundaries according to the approved layout along with the Taluk Head Surveyor and to submit his report with rough sketch.

Petition in brief:

2. The Hon'ble Court was pleased to appoint an Advocate Commissioner along with the Taluk Head Surveyor in IA.No.345/2017. The Taluk Surveyor has inspected the property but not filed his actual report as per his inspection. The report,

he has filed is entirely different from his inspection proceedings. Hence, the petition filed detailed objections to the Advocate Commissioner's report before this Court. The petitioners have already crave of this Court in one of the para of the objections to the commissioner's report filed by the petitioner in the above suit, and to permit the petition to file this petition to re-issue the warrant to the Advocate Commissioner. Since the correctness of the identification and situation of the property is being disputed it is necessary to order for Re-survey of the petition/suit property, otherwise the petitioner will be irreparable loss and hardship.

Counter averments in brief:

3. The petition claim is totally false, frivolous, vexatious and not sustainable neither in the eye of law or on facts of the case. The Taluk Surveyor has not filed his actual report as per his inspection, that the identification and situation of the suit property is under dispute which are all absolutely false, baseless and unnecessary allegations invented for the purpose of filing this petition. It is not correct to state that the re-issue of warrants essential one. The Taluk Surveyor had inspected the suit property and file his report rightly according to his inspection so there is no objection in his report, so there is no necessity to appoint for re-issue of commission warrant to the learned Advocate Commissioner and Taluk Head Surveyor. There is no merits, bonafides or reasons in the petition. This petition is filed by the petitioner with an ulterior motive to coerce and to harass this respondent from pillar to post without meeting the ends of justice. Hence, this petition is liable to be dismissed with costs.

Point:-

4. Whether the petitioners are entitled to the relief as sought for?

5. The petition filed by the petitioner for reissue of warrant for Advocate Commission to measure the suit property again. Already Advocate Commission petition was filed and allowed but the measurement was not correct and also boundaries are not mentioned as in the petition. Hence, in the interest of justice this petition is to be allowed to revisit and to reissue the Advocate Commission warrant. Now the petition is allowed to reissue the warrant to Taluk Head Surveyor along with the Advocate Commissioner R. Rajeshwara Babu to revisit the petition schedule property in S.No.94/1 measure the extent and note down the physical features and boundaries as in the petition schedule properties and to file detail report along with the sketch. The Advocate Commissioner is directed to give prior notice to both parties about the date of inspection of the petition schedule mentioned property. The Remuneration for the Advocate Commissioner is fixed Rs.3,000/-. The Remuneration will be paid after filing report. The Taluk Surveyor hereby directed to file his report along with plan and sketch to this Court directly as soon as possible. Call on 17.04.2021.

Dictated to Steno – Typist, computerized by her directly, corrected and pronounced by me in open court, this the 24th day of March 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides witnesses and Exhibits:-

NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.