

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD) No.2171 of 2016
and C.M.P.No.11277 of 2016

Chandirakandan

... Petitioner

Vs.

Vasanthamma

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and final order passed in I.A.No.21 of 2016 in A.S.No.6 of 2015 on the file of the Subordinate Judge, Panruti, Cuddalore District dated 06.04.2016.

For Petitioner : Mr.A.Bharathi
for M/s.Muthumani Doraisami

ORDER

Challenging the fair and final order passed in I.A.No.21 of 2016 in A.S.No.6 of 2015 on the file of the Subordinate Judge, Panruti, the defendant in O.S.No.114 of 2004 on the file of the District Munsif Court, Panruti, has filed the above Civil Revision Petition.

2.The respondent/plaintiff filed the suit in O.S.No.114 of 2004 for partition.

3.The trial Court passed a preliminary decree. Subsequently, the plaintiff filed a final decree application in I.A.No.974 of 2013 and a final decree was passed by the trial Court. Challenging the final decree passed, the defendant filed an appeal in A.S.No.6 of 2015. In the First Appeal, the defendant took out an application in I.A.No.21 of 2016 seeking for appointment of Advocate Commissioner to divide the property with the help of a Surveyor.

4.When the final decree passed by the trial Court is under challenge in A.S.No.6 of 2015, there is no necessity for seeking for appointment of an Advocate Commissioner again. The final decree has been passed only after the appointment of a Commissioner. That being the case, the present application seeking for appointment of another Commissioner to divide the property is unwarranted. If the defendant is aggrieved over the final decree passed in I.A.No.974 of 2013, he can question the correctness of the final decree in the First Appeal. In these circumstances, the Lower Appellate Court has rightly dismissed the application.

5. Therefore, I do not find any reason to interfere with the order passed by the Lower Appellate Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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29.11.2016

To

1. The Subordinate Judge,
Panruti,
Cuddalore District.

M.DURAIWAMY,J.

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