

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(N.P.D.) No.1089 of 2013

S.Rajeswari : Petitioner
versus

1.Rajeswari
2.Varalakshmi @ Lakshmi
3.Gowri
4.Saraswathi
5.S.Ramakrishnan
6.S.Paranthaman
7.S.Sambandha Moorthy : Respondents

PRAYER: Revision filed against the fair and decreetal order dated 11.10.2012, in E.A.No.27 of 2012 in E.P.No.53 of 2011 in O.S.No.10 of 2003, by the learned Subordinate Judge, Tirutani.

For petitioner :: Mr.A.R.Suresh

For respondents :: Mr.S.Senthilnathan,
for respondents 1 to 4

ORDER

The respondents 1 to 4 filed an application in E.P.No.53 of 2011 before the Subordinate Court, Thirutani, to appoint Advocate Commissioner to inspect the property shown in the execution petition and submit a report. The application was allowed by the learned Subordinate Judge. The said order is under challenge in this revision petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 to 4.

3. The first respondent filed a suit in O.S.No.10 of 2003 for specific performance. The suit was filed against the grandfather of the petitioner and others. The suit was decreed by the Trial Court. According to the petitioner, she was not aware of the civil suit.

4. The petitioner filed a civil suit for partition in O.S.No.120 of 2011. In the meantime, the first respondent filed an application for execution of the decree. The respondents 1 to 4 filed also filed an application for appointment of Advocate Commissioner and to report about the physical features of the property. The application was allowed by the Trial Court.

5. The petitioner is yet to take delivery of the property. The suit was filed on the strength of a sale agreement dated 4 December 2001. There is nothing on record to show that the sale agreement covers the entire property which is the subject matter in O.S.No.120 of 2011. The respondents 1 to 4 are therefore correct in filing the application for appointment of Advocate Commissioner to report about the physical features of the property. The petitioner is in no way prejudiced by such appointment. In fact, the petitioner would also be in a position to ascertain the property sold to her by way of alleged agreement dated 4 December

2001. I am therefore of the view that there is no merit in the contention taken by the petitioner.

6. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

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Index:Yes/no
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To
The Subordinate Court, Tirutani.

K.K.SASIDHARAN, J.

(tar)

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