

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)No.4843 of 2014  
and M.P.No.1 of 2014

1.M.A.Jayaraman

2.T.D.Kathavaryan

.. Petitioners

Vs.

C.Jamuna

.. Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 31.07.2014 made in I.A.No.164 of 2011 in O.S.No.63 of 2010 on the file of the Subordinate Court, Tiruttani.

For Petitioners : Mr.S.Parthasarathy,  
Senior Counsel for  
M/s.G.Bharadwaj

For Respondent : Mr.S.Udaya Kumar

**ORDER**

This Civil Revision Petition is filed against the fair and decretal order dated 31.07.2014 made in I.A.No.164 of 2011 in O.S.No.63 of 2010 on the file of the Subordinate Court, Tiruttani.

2.The petitioners are defendants and respondent is plaintiff in O.S.No.63 of 2010 on the file of the Subordinate Court, Tiruttani. The respondent filed the said suit for declaration and permanent injunction. In addition to present suit, the petitioners filed two other suits. The other two suits were transferred to Subordinate Court, Tiruttani before trial along with present suit and they were taken up for joint trial. At this stage, the petitioners filed present application, I.A.No.164 of 2011 under Order XXVI Rule 9 of C.P.C to appoint Taluk Surveyor as Commissioner to inspect the suit property and to file his report with sketch. According to the petitioners, the properties purchased by them in the year 1984 is in Survey Nos.22/8B and 22/8C. The respondent purchased the property in Survey No.22/14. The respondent is disputing the petitioners' properties. In view of the same, it is necessary to appoint Taluk Surveyor as Commissioner to inspect the properties, Survey Numbers and boundaries of the properties and to find out in whose name, the property is standing.

3.The respondent filed counter affidavit and contended that already an Advocate Commissioner was appointed in I.A.No.61 of

2010 to note down the physical features and other particulars like boundaries etc. The Advocate Commissioner inspected the property and filed his report after visiting the suit properties in the year 2010. The petitioners did not file any objection to the Commissioner's report and filed present application only to protract the proceedings and prayed for dismissal of the application.

4. Before the learned Judge, both the petitioners and respondent did not let in any oral evidence. The petitioners marked 11 documents as Exs.P1 to P11 and the respondent marked 9 documents as Exs.R1 to R9. The report of the Advocate Commissioner and Sketch were marked as Exs.C1 and C2.

5. The learned Judge considering the averments in the affidavit, counter affidavit, documents filed and marked by the parties and taking note of the fact that the Advocate Commissioner already appointed earlier in I.A.No.61 of 2010 filed by the respondent in the present suit filed his report on 17.06.2010 and the petitioners did not file any objection to the said report, dismissed the application.

6. Against the said order of dismissal dated 31.07.2014 made in I.A.No.164 of 2011 in O.S.No.63 of 2010, the petitioners have come out with the present Civil Revision Petition.

7. Heard the learned Senior Counsel for the petitioners as well as the learned counsel for the respondent and perused the materials available on record.

8. The contention of the learned Senior Counsel for the petitioners is that there is dispute with regard to properties purchased by the petitioners and respondent. The Survey Numbers are different and only Taluk Surveyor can verify the records with regard to Survey numbers and boundaries and report of the Taluk Surveyor will only assist the Court in arriving the decision. These contentions are without merits. It is seen from the records that already one V.Shanmugam Advocate was appointed as Commissioner on 15.03.2010. He inspected the suit properties and filed his report on 17.06.2010 and the report of the Advocate Commissioner and Sketch were marked as Exs.C1 and C2. Exs.C1 and C2 were also served on the petitioners. The petitioners have not filed any objection to the said report and sketch. In view of the

same, the petitioners are not entitled to relief of appointment of Taluk Surveyor as a Commissioner for the very same relief.

9.The learned Judge has considered all the above facts in proper perspective and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 31.07.2014 made in I.A.No.164 of 2011 in O.S.No.63 of 2010.

10.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.03.2018

Index :: Yes/No  
gsa

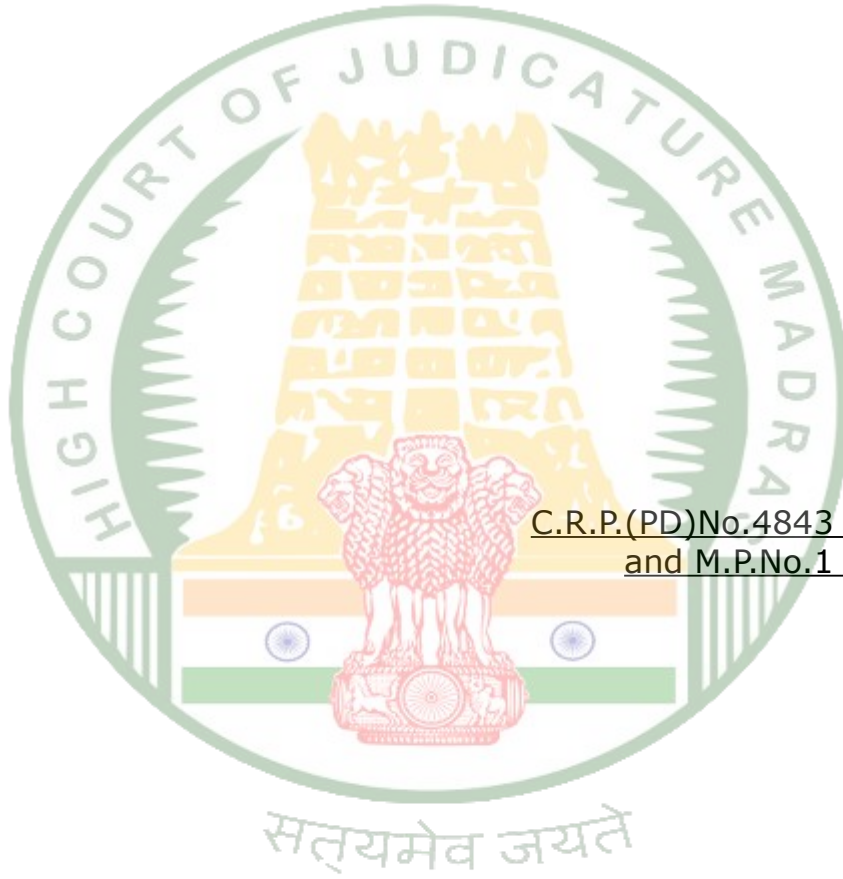
To

The Subordinate Judge,  
Tiruttani.

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**V.M.VELUMANI,J.**

gsa



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