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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.507 of 2018

and

C.M.P. (MD) .No.2196 of 2018

Mariyayee

... Petitioner/Plaintiff

Vs.

1. Muthusamy
2. Selvarasu
3. Saroja
4. Gandhimathi
5. Vasantha
6. Sivapayee (died)
7. Ganesan

... Respondents/7th Defendant

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order in I.A.No.89 of 2009 in O.S.No.271 of 2005, dated 17.04.2017 on the file of the learned District Munsif, Pattukottai.

For Petitioner	:	Mr.N.Balakrishnan
For R1 to R6	:	Given up
For R7	:	Mr.M.Periyathambi

O R D E R

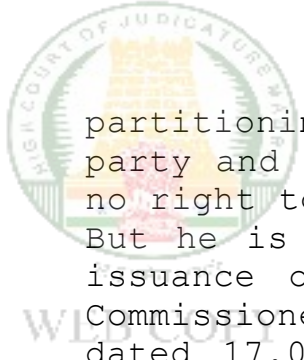
The Civil Revision Petition is filed against the docket order passed by the learned District Munsif, Pattukottai in I.A.No.89 of 2009 in O.S.No.271 of 2005, dated 17.04.2017.

2. It is the case of the petitioner that originally the petitioner has filed an application in I.A.No.89 of 2009 before the learned District Munsif, Pattukottai for passing final decree by appointing an Advocate Commissioner to partition the property. Accordingly, the learned District Munsif, Pattukottai also passed an order appointing the Advocate Commissioner viz., Mr.K.Karthikeyan. Now, the 7th respondent, who is the subsequent purchaser of the suit property, was impleaded as the 7th defendant in the suit. After impleading himself as the 7th defendant in the suit, he seeks for appointment of another Advocate Commissioner to inspect and partition the property.

3. Heard the learned counsel on either side and perused the materials placed before this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

4. It is the absolute view of this Court that once an Advocate Commissioner was appointed and also filed a report by



partitioning the property, the 7th respondent, who is the third party and also the subsequent purchaser of the suit property has no right to seek any further appointment of Advocate Commissioner. But he is having right to seek permission of this Court for re-issuance of warrant, if he suffers the report of the Advocate Commissioner. Therefore, the order passed in I.A.No.89 of 2009, dated 17.04.2017 is liable to be set aside. Accordingly, this Court is inclined to pass the following order:

The Civil Revision Petition is allowed and the docket order passed in I.A.No.89 of 2009, dated 17.04.2017 is set aside with liberty to the 7th respondent to file an application for re-issuance of warrant to the same Commissioner and if the Commissioner is not available, to appoint for another Commissioner. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The District Munsif,
Pattukottai.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

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