



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) Nos.1868 to 1870 of 2017

and

C.M.P. (MD) No.9755 to 9757 of 2017

1.Sikkandar Beevi
2.Noorjahan
3.Mohammed Theethar

... Petitioners
(in all petitions)

Vs.

1.M.Sikkandar Beevi
2.Abdul Jabbar
3.Muthu Mohammed
4.Mohammadal Banu

... Respondents

Common Prayer: Civil Revision Petitions - filed under Section 115 of the Civil Procedure Code, to set aside the order in I.A.No.148, 149 and 150 of 2016 in O.S.No.82 of 2007 on the file of the District Munsif Court, Senkottai, dated 20.07.2017 and consequently direct the trial Court to amend the 4th schedule property in new survey no.2213/8 instead of old survey no.772.

For Petitioners: Mr.J.Jeyakumaran
For R-1 : Mr.F.X.Engene
(in all petitions)

COMMON ORDER

The legal representatives of the original plaintiff in O.S.No.82 of 2007 on the file of the District Munsif Court, Senkottai, are the revision petitioners herein. The first plaintiff has passed away. However, there is no need to bring the legal heirs on record. Because, the second and third petitioners herein are her legal heirs. It is a suit for partition. A preliminary decree was passed. Final decree application was also taken out. The Advocate Commissioner went to divide the suit properties by metes and bounds. The dispute arose with regard to the fourth schedule property. The persons residing in the fourth schedule property prevented the Advocate Commissioner from proceeding with his work on the ground that survey number was not mentioned in the plaint or in the preliminary decree. That necessitated the filing of the present applications. The



plaintiff filed three applications, one for amending the plaint, second for amending the preliminary decree and third for amending the suit schedule in the final decree. All the three applications were dismissed. Questioning the same, these civil revision petitions have been filed.

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2. Heard the learned counsel on either side.

3. The learned counsel appearing for the revision petitioner submitted that the four boundary description in respect of the fourth schedule is not sought to be altered. What is sought to be introduced is only the survey number. But, then the learned counsel for the contesting respondents pointed out that survey number and four boundary description do not tally.

4. Be that as it may. When the four boundary description is very much available, the Commissioner can very well proceed to execute the warrant on that basis. Merely because the survey number is not mentioned, the same will not a ground for not executing the warrant.

5. The Court below shall ensure that Advocate Commissioner is not resisted on the ground that survey number is not mentioned.

6. With these clarification and the aforesaid direction, the civil revision petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS-I)

To

The District Munsif, Senkottai.

+ 1 CC TO MR.F.X.ENGINE , ADVOCATE IN SR NO.88268

+ 1 CC TO MR.J.JEYAKUMARAN, ADVOCATE IN SR NO.88352

SM

BU/SKN/SAR-1 :12.11.2018 : 2P/4C