



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.2070 of 2016

and

C.M.P. (MD) .No.9679 of 2016

Mangai .. Petitioner/4th Respondent/4th Respondent

/Vs./

G.R.Balasubramanian (died)

1.R.B.Govindasamy .. 1st Respondent/Petitioner/Plaintiff

2.B.Ramaiyan

3.Amutha

4.V.Thangamani

5.B.Kunjumani Ammal .. Respondents 2 to 5/Respondents 2,3,5 & 6
/Defendants 2,3,5 & 6

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records of the learned Principal Subordinate Judge, Thanjavur made in I.A.No.71 of 2015 in O.S.No.99 of 2005 and set aside the fair and decreetal order, dated 27.07.2016.

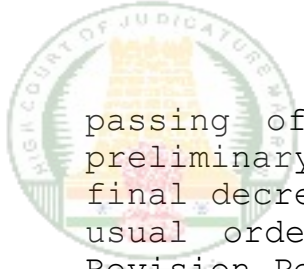
For Petitioner : Mr.M.Karunanithi
For Respondents : Mr.R.Vijayakumar for R1
No Appearance for R2, R3 & R5
R4 - Left

ORDER

O.S.No.99 of 2005 is a suit for partition. Preliminary decree was passed on 20.02.2012. The plaintiff took out interlocutory application in I.A.No.75 of 2015 for passing final decree. In the said application the Court below appointed an Advocate Commissioner to measure the property with the help of surveyor, divide into four equal shares and file a report with plan. This order has been challenged in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.The learned counsel for the revision petitioner reiterated the grounds set out in the memorandum. When a preliminary decree has been passed and the final decree application has been filed, the court below is bound to appoint an Advocate Commissioner for dividing the property by metes and bounds. Even if the preliminary decree is under challenge before the Appellate court, it would stay



passing of the final decree alone in the suit. So, when the preliminary decree was passed and has not been set aside, and the final decree application is filed, order like the one on hand is the usual orders that is passed. There is no merit in this Civil Revision Petition.

4. Accordingly, this civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

TM

To

1. The Principal Sub Judge,
Thanjavur.

2. The Section Officer, (2 Copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. M. Karunanidhi, Advocate in SR No. 79560
+1cc to Mr. R. Vijayakumar, Advocate in SR No. 79493

C.R.P. (PD) (MD) No 2070 of 2016

NM/RP/SAR 4/25.09.2018/2P/6C