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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD)(MD)No.2127 of 2018

and

C.M.P.(MD)No.9409 of 2018

Kombu Madathi ... Revision Petitioner/Petitioners/Plaintiffs
Vs

1.Isravel
2.Chellapandi
3.Kanniyammal
4.Subbhu

... Respondents/ Respondents/Defendants

PRAYER : Petition filed under Article 227 of the Constitution of India to allow this Memorandum of Civil Revision Petition and thereby set aside fair and decreetal order dated 21.08.2018 in I.A.No.72 of 2018 in O.S.No.14 of 2016 made on the file of the District Munsif Court, Kovilpatti.

For Petitioner : Mr.B.Rajesh Saravanan
For Respondents : Mr.M.Prabhu

ORDER

The plaintiff in O.S.No.14 of 2016 on the file of the learned District Munsif, Kovilpatti is the revision petitioner herein. It is a suit for declaration and recovery of possession. The suit has been filed on the strength of a sale deed dated 06.10.2004. The plaintiff filed I.A., for appointing an advocate commissioner. Since, the suit schedule is bereft of any four boundaries, the Court below dismissed the said I.A. Challenging the same, this Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.The learned counsel appearing for the revision petitioner pointed out that the suit in question has been filed only on the strength of a sale deed dated 06.10.2004 and in the said sale deed, the four boundaries has been clearly mentioned. Due to inadvertance, the plaintiff failed to give the four boundaries description in the suit schedule.

4.I am of the view that the order impugned in this Civil Revision Petition cannot be faulted. But then, to render substantial justice, the revision petitioner can be permitted to file an application to amend the plaint. Trial is yet to commence. The Court below shall be indulgent in considering the application. After the said application is allowed, it is always open to the revision petitioner to file a fresh application for appointing an advocate commissioner.



5. With this liberty and observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar (CRL.SIDE)

Sub Assistant Registrar (CS-I)

To
The District Munsif,
Kovilpatti.

- 1 CC TO Mr.B.RAJESH SARAIVANAN , ADVOCATE IN SR No.92874.
- + 1 CC TO Mr.M.PRABHU , ADVOCATE IN SR No.92620.
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- PNN
- DS RSK SAR1 12 12 2018 2P 4C

ORDER MADE IN
C.R.P. (PD) (MD) No. 2127 of 2018
and
C.M.P. (MD) No. 9409 of 2018

29.10.2018