

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

C.R.P.NPD.No.2923 of 2014  
& M.P.No.1 of 2014

S.P.Manickam

.... Petitioner

Vs

1. Dhanam
2. Amaravathi
3. Chinnammal
4. Poonkodi

.... Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 09.06.2014 passed in I.A.No.85 of 2013 in O.S.No.380 of 2004 on the file of the learned Additional District Munsif, Namakkal.

For Petitioner : Mr.M.Velmurugan  
For Mr.Venkatesh Mohanraj

For Respondents  
For R1 & R2 : Mr.S.R.Varu Karthik  
For Mr.C.Jagadish  
For R3 & 4 : No appearance

## **ORDER**

The instant Civil Revision Petition has been filed as against the order dated 09.06.2014 passed in I.A.No.85 of 2013 in O.S.No.380 of 2004 on the file of the learned Additional District Munsif, Namakkal.

2. Initially, the first and second respondents in this Civil Revision Petition have filed a suit in O.S.No.380 of 2004 on the file the learned Additional District Munsif, Namakkal, as against the petitioner and the respondents 3 & 4 herein and sought for the relief of partition and separate possession. The learned Additional District Munsif, Namakkal, by a judgement and decree dated 29.06.2006, allowed the said suit filed by the respondents 1 & 2 and ultimately granted preliminary decree for partition.

3. Thereafter, the respondents 1 & 2, who are the plaintiffs in the said suit, filed an application in I.A.No.85 of 2013 for the relief to appoint an Advocate Commissioner and divide the suit schedule property as per the terms of preliminary decree dated 29.06.2006. Since the appeal filed by the present revision petitioner in A.S.No.165 of 2006 on the file of the Subordinate Court, Namakkal, was dismissed for default by an order dated 06.04.2010, the learned Additional District Munsif, Namakkal, by an order dated 09.06.2014, appointed an Advocate Commissioner and directed him to divide the property as per the terms of the preliminary decree. Against the said order dated 09.06.2014, the petitioner is before this Court with the present Civil Revision Petition.

4. Today when this petition is taken up for hearing, both the learned counsel appearing for the petitioner and the respondents 1 & 2 are present.

5. In fact, today, in the connected Civil Revision Petition in C.R.P.No.3760 of 2016, this Court directed the learned Subordinate Judge, Namakkal, to take the appeal in A.S.No. 165 of 2006 on file and dispose the same within a period of three months. Therefore, since the appeal against the preliminary decree is in force, dividing the suit property is unnecessary. The Advocate Commissioner has to divide the suit property only in accordance with the decree passed in the appeal suit. Therefore, the learned Additional District Munsif, Namakkal is directed to keep the application in I.A.No.85 of 2013, without passing any further orders and lie over the same till the disposal of the appeal i.e., A.S.No.165 of 2006 on the file of the learned Subordinate Judge, Namakkal. After disposal of the said appeal, the learned Additional District Munsif, Namakkal, has to proceed with the application in I.A.No.85 of 2013, as per the judgement rendered by the learned Subordinate Judge, Namakkal.

6. Accordingly, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

rts

**R.PONGIAPPAN, J.**

rts

To

1. The Additional District Munsif Court,  
Namakkal.
2. The Subordinate Court,  
Namakkal.



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