



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.1583 of 2017

Lakshmanan Ambalam

...Petitioner / Respondent /
Respondent No.41 / 3rd party

Vs.

Saminathan

... Respondent / Petitioner /
Respondent No.23 / 3rd party

PRAYER: Civil Revision Petition is filed, under Under Article 227 of the Constitution of India, challenging the fair and decreetal order of the learned District Munsif Court, Pudukkottai in I.A.No.1396 of 2016 in I.A.No.762 of 2004 in O.S.No.561 of 1967, dated 02.03.2017 by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Balakrishnan

For Respondent : Mr.PJamal Mohamed

O R D E R

This Civil Revision Petition has been filed challenging the order, dated 02.03.2017 passed in I.A.No.1396 of 2016 in I.A.No.762 of 2004 in O.S.No.561 of 1967 by the learned District Munsif, Pudukkottai.

2.The Court below has passed an order in I.A.No.762 of 2004 by appointing an Advocate Commissioner to divide 1/4th share of the subject matter property to the revision petitioner. However, in the Second Appeal No.909 of 1975, this Court, passed an order that the revision petitioner is entitled only for 7.5 acres alone. Therefore, the respondent herein filed I.A.No.1396 of 2016 for a direction to divide and provide only 7.5 acres to the revision petitioner in terms of the order passed by this Court in the Second Appeal. Accordingly, the Court below passed an order, dated 02.03.2017 by directing the Advocate Commissioner to divide the property in terms of the order passed by this Court in S.A.No.909 of 1975. Aggrieved by the said order, the revision petitioner filed the present Civil Revision Petition.

3.Today, when the matter came up for hearing, the learned
<https://hcservices.courts.gov.in/hcservices/> counsel appearing for the petitioner submitted that the petitioner



has restricted his claim only to 7.5 acres as per the decision made in S.A.No.909 of 1967. The learned counsel for the respondent has also fairly submitted that the respondent is also entitled for 7.5 acres.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.Since this Court has passed an order in S.A.No.909 of 1975 holding that the share of the revision petitioner, in the subject matter property, is restricted to 7.5 acres, the revision petitioner also admitted the fact that his share is only 7.5 acres and the respondent herein also stated that the revision petitioner's right in the subject matter property is only 7.5 acres.

6.In view of the above submissions made by the learned counsel appearing on both sides and in view of the Judgment passed in Second Appeal No.909 of 1975, this Court clarified that the right of the revision petitioner in the subject matter property is restricted to only 7.5 acres. Accordingly, the Advocate Commissioner appointed by the Court below can divide the property and hand over the share (7.5 acres) of the revision petitioner separately. Both the counsels mentioned that even after the distribution of 7.5 acres of land, as per the order passed by this Court in S.A.No.909 of 1975, there will be excess amount available. If any property is available over and above 7.5 acres, after dividing the property equally to both/all the parties to the suit, liberty is given to both the parties to claim their share in the remaining portion of the property, if they are entitled for the same.

7.Considering the fact that the suit is of the year 1967, the trial Court is directed to pass final decree within a period of three months from the date of receipt of a copy of this order. Further, this Court directed the Court below to file compliance report before this court on or before 02.01.2020. This Court also directed the Advocate Commissioner to file his report, before the Court below, within one month from the date of receipt of a copy of this order.

8.This Civil Revision Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

rj2

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



To

1. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

2. The District Munsif, Pudukkottai.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.BALAKRISHNAN, Advocate (SR-87405[F] dated 18/09/2019

+1 CC to M/s.K.BAALASUNDHARAM, Advocate (SR-87341[F] dated
18/09/2019)

Order made in
C.R.P (MD) No.1583 of 2017
17.09.2019

JMN(25.09.2019) 3P : 6C