



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD) No. 645 of 2019
&CMP (MD) .No.3314 of 2019

1.Kulaikather Thangadurai
2.Bharatha Rajkumar
3.Radhakrishnan

... Petitioners/Petitioners/
Plaintiffs

Vs.

Inspector,
Boothan Board,
District Collector Office Campus,
Tirunelveli

...Respondent/Respondent/
Defendant

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order passed in I.A.No.106 of 2018 in O.S.No.304 of 2013 on the file of the Additional District Munsif Court, Valliyoor dated 03-09-2018 and set aside the same.

For Petitioners : Mr.H.Arumugam
For Respondents : Mrs.Lakshmi Prasanna,
Govt. Advocate

ORDER

The Civil Revision Petition is laid by the plaintiffs in O.S.No.304 of 2013, in which they seek declaration of their title over the properties comprised in Sy.Nos.266/3 & 266/5 of A.Thirumalapuram Village, Radhapuram Taluk.

2.The suit is laid against Boothan Board, which in its written statement has contended that the property in Sy.No.266/3 has been sub-divided into Sy.No.266/3A and Sy.No.266/3B and patta has been granted for Sy.No.266/3B as well as for Sy.No.266/5. It is in these circumstances, the revision petitioners have filed a petition to appoint a Commissioner for local inspection to ascertain the physical features of the suit properties. The same came to be dismissed by the trial Judge on that ground that law does not permit appointment of a Commissioner to ascertain possession.



3.Heard both sides.

4.The learned counsel for the revision petitioners submits that the property has been assigned by the Boothan Board to third parties and the revision petitioners anticipate that they would be dispossessed and hence, they want a Commissioner to be appointed to note the physical features of the property. He also added that in terms of the written statement, even if the contention of the defendant were true, yet, the property covered in Sy.No.266/3A has to be identified.

5.The learned Government Advocate would now submit that as per the village records even Sy.No.266/3A belong to the Boothan Board, even that is adequately clarified in the impugned order.

6.After weighing rival submissions, this Court finds it necessary to appoint a Commissioner only for identifying Sy.No.266/3A.

7.In conclusion, this Civil Revision Petition is partially allowed and the Additional District Munsif Court, Valliyoor. is directed to appoint an Advocate Commissioner who has a reasonable standing on the civil side and reasonably regular in his appearance before the Court, on payment of such remuneration as it may deem just and proper for identifying S.No.266/3A and its physical features. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

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/ /2020

Sub Assistant Registrar(CS)

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To

The Additional District Munsif Court,Valliyoor.

Copy to

Inspector,Boothan Board,

District Collector Office Campus,Tirunelveli

+1 CC to M/s.GP (SR-19444[F] dated 08/10/2020)

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-19495[F] dated 08/10/2020)

C.R.P.(PD)(MD)No.645 of 2019

07.10.2020

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