



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (NPD) (MD)No.1454 of 2019

and

C.M.P(MD).No.7735 of 2019

WEB COPY

Rajan @ Rajamoney ... Petitioner/ Petitioner/Plaintiff

Vs.

BabuRespondent/Respondent/Defendant

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.NO.267 of 2018 in O.S.No.158 of 2016 dated 12.12.2018 on the file of the Sub Court, Kuzhithurai.

For Petitioner : (*)**Mr.H.Thayumanaswamy**

For Respondents : Mr.T.S.R.Venkatramana

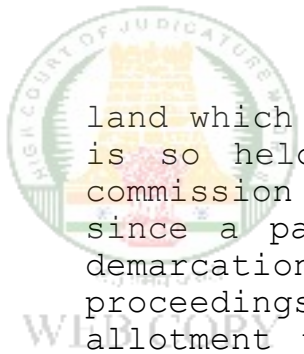
ORDER

The revision petitioner herein is the plaintiff in O.S.No.158 of 2016 on the file of the Sub Court, Kuzhithurai which came to be laid for a decree of demarcation against his brother. In the suit, he has filed I.A.NO.267 of 2018 for appointing a commission to fix boundary. This was dismissed by the trial court Vide its impugned order dated 12.12.2018.

2. Heard both sides.

3. In the course of the arguments Mr.T.S.R.Venkatramana, learned counsel for the respondent, would contend that on the same property there are atleast 8 suits pending of which, one is the suit in O.S.No.144 of 2019 which the present plaintiff has laid for partition of the properties against the same the defendant/respondent. The said suit also includes the property involved in the demarcation suit. He submitted that according to the defendant's case when he was abroad, some documents were fabricated by the plaintiff and patta was obtained for an extended area, and on return, the defendant/respondent found the same and an application was filed before the Revenue Divisional Officer for cancellation of patta for the extended extent and the same was allowed.

4. This Court presently is not concerned with the merit of the contention between the parties in the suit but only as to the need for appointing a commission at this stage. Suffice to say that in a suit for demarcation, the need for demarcation and the extent of the



land which is to be demarcated may have to be first decided. If this is so held, then, preliminary decree may have to be passed and commission can be appointed even at final decree stage. Secondly, since a partition suit is also pending between the parties, some demarcation line can even be drawn during the final decree proceedings in the partition suit subject however to such equitable allotment which the parties may have a right to seek. Therefore, this Court is of the opinion that this petition is one stage far too early. This Court may not agree with the reasoning of the trial court, yet it arrives at the same conclusion as arrived by the trial court. In final, there is no merit in this Civil Revision Petition.

5. Since there are eight suits relating to the same subject matter between the parties and others, the learned District Judge, Kanyakumari District at Nagercoil, is required to go through the plaint in each of the cases and may consolidate them if they can be exercising his *suo mottu* power under Section 24 of C.P.C on or before 23.12.2020. Upon such consolidation, the court in which all the suits are consolidated is required to dispose them within a period of 10 months from the date of consolidation.

6. With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

**(*Corrected as per order of
this Hon'ble Court dated
16.12.2020)**

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cm

TO BE SUBSTITUTED THE ORDER ALREADY DESPATCHED ON 08.12.2020

To

The Subordinate Judge,
Kuzhithurai.

+1 CC to Mr.H.THAYUMANA SWAMY,Advocate(SR-22160[F] dated 19/11/2020)

+1 CC to Mr.T.S.R.VENKATRAMANA,Advocate(SR-22257[F]dated 20/11/2020)

C.R.P. (NPD) (MD)No.1454 of 2019

and

C.M.P (MD) .No.7735 of 2019

19.11.2020

VB (07.12.2020) 2P 4C

AP (29.12.2020) 2P 4C

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