



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.2216 of 2017
and C.M.P. (MD)No.10856 of 2017

1.S.Hidayathullah
2.M.Pandiyan
3.S.Samsukani

... Petitioners/Respondents 1, 3 & 4/
Defendants 1, 3 and 4

Vs.

1.Rasool Beevi
2.Adham Malik
3.A.S.Jesuraj
4.M.Lukman Sithik

..Respondents 1 & 2/Petitioners/
Plaintiffs
..3rd Respondent/2nd Respondent/
2nd Defendant
...4th Respondent/5th Respondent/
5th Defendant

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition and set aside the fair and decreetal order dated 31.08.2017 made in I.A.No.307 of 2017 in O.S.No.592 of 2012 on the file of the District Munsif Court, Thirumangalam.

For Petitioners	: Mr.PT.S.Narendravasan
For R1 & R2	: Mr.R.Aravindan
For R3	: No Appearance
For R4	: Notice dispensed with

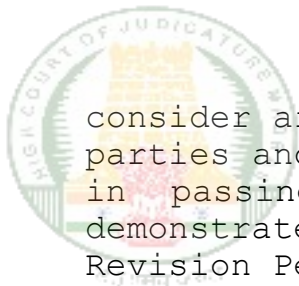
ORDER

The present revision is filed challenging an order passed by the District Munsif, Thirumangalam in appointing a commission at the instance of the plaintiffs. The suit is laid to declare that the suit property is the common pathway.

2.The learned counsel for the revision petitioners argued, rather vehemently that whether the pathway is a common pathway or not has to be decided only on the basis of documentary evidence and that there is no need for appointing a commission. Secondly, the Commissioner was required to inspect the suit property and to note down the physical features.

3.Heard the learned counsel for the respondents 1 and 2/plaintiffs.

4. This Court is not impressed with the arguments of the learned counsel for the revision petitioners for the simple reason that at the end of the day, the trial court is equipped with necessary discretion to make available such necessary materials which it



consider are essential for appreciating the controversy between the parties and for disposing the case. There is no perversity indicated in passing the order nor breach of propriety or illegality demonstrated. Hence, this Court finds no merit in this Civil Revision Petition.

5. Since the suit is of the year 2012, the trial court is required to require the Commissioner to expedite the process and file his report within a period of two months wherein after the trial court is required to disposal of the main suit itself within a period of three(3) months subject to intervening summer vacation. If the Commissioner faces any difficulty in obtaining the assistance of the official surveyor, the learned District Munsif may inform the Principal District Judge, Madurai, who may require the concerned officials to provide the official surveyor for the purpose, at the very earliest without causing any further inconvenience and delay for the final adjudication of the litigation.

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

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

CM

To

1.The Principal District Judge, Madurai.

2.The District Munsif Court,
Thirumangalam.

COPY TO
The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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VR(CO)

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