

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.843 of 2021
and C.M.P.No.6994 of 2021**

T.Anandan

...Petitioner

Vs.

1.Murugan

2.Selvam

Sakaravarthi (Died)

3.Govindaraj

4.Gopal

5.Anandan

6.Mani

7.Saravanan

8.Velu @ Kumaresan

9.Sakaravarthi

10.Lattu @ Manivasagam

11.Vediappan Kovil Temporary Tharmakarthi

12.Assistance Commissioner,

Hindu Religious Administration, Vellore.

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.01.2021 made in I.A.No. 1 of 2019 in O.S.No.282 of 2015 on the file of Additional District Munsif Court at Tirupattur.

For Petitioner : Mr.B.Manoharan

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed, as against the fair and decreetal order made in I.A.No.1 of 2019 in O.S.No.282 of 2015 on the file of Additional District Munsif Court, Tirupattur, dated 23.01.2021.

2. I.A.No.1 of 2019, was filed seeking to reissue of warrant to the Advocate Commissioner to inspect the suit property in Survey No.30/4 for measuring the property with the help of sale deeds and the patta and with the help of surveyor and file a report. It is further submitted that the petitioner filed a suit for declaration of title in respect of the suit property. As per his request, the Advocate Commissioner was appointed. He inspected the suit property on 27.01.2016 and filed a report. The report shows that he was not able to measure the property for the reasons that the persons in possession had objected for his inspection. Survey No.30/3 has been sub divided in the name of Vediappan Temple Dharmadhakta. Similarly, survey No.30/47 in the name of one Singaram, 30/4B1 in the name of Ko. Mani, Survey No.30/4b3 in the name of Lakshmi Ammal, Survey No.30/16 in the name of Vijayaendiram, had been sub divided. The

total extent is 39 cents. Only if these lands are measured with the help of sale deeds and the patta of the lands aforementioned, the suit property of 4 cents in survey No.30/1 could be identified. It is because of the objection made by Mr.G.Prakasam, Commissioner was not able to measure the property.

3.The learned counsel for the petitioner submitted that the reissue of warrant to the Advocate Commissioner to inspect the suit property along with the help of a surveyor is absolutely necessary to identify the suit property and for adjudication of the case. This petition was dismissed by the learned Additional District Munsif, Tirupattur, on the ground that the properties of the person who are not parties to the suit cannot be measured.

4. Though notice was served on the respondents, there is no representation on behalf of the respondents.

5.However, in the light of the Report filed by the Advocate Commissioner that the suit property can be identified only if the property

has situated nearby are measured, this Court is of the considered view that inspection and measurement of the properties as indicated by the Advocate Commissioner is necessary for the adjudication of this case.

6.In this view of the matter, the order passed in I.A.No.01 of 2019 is set aside and the Civil Revision Petition stands allowed. The learned Additional District Munsif is directed to reissue the warrant to the same Advocate Commissioner or to some other Advocate Commissioner with a direction to inspect the suit property along with surveyor and measure the property with the help of title deeds and records as indicated in the Commissioner's Report and file a report along with the plan. Consequently, connected miscellaneous petition is closed.

13.08.2021

Pns

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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To

1.The Additional District Munsif Court,
Tirupattur.

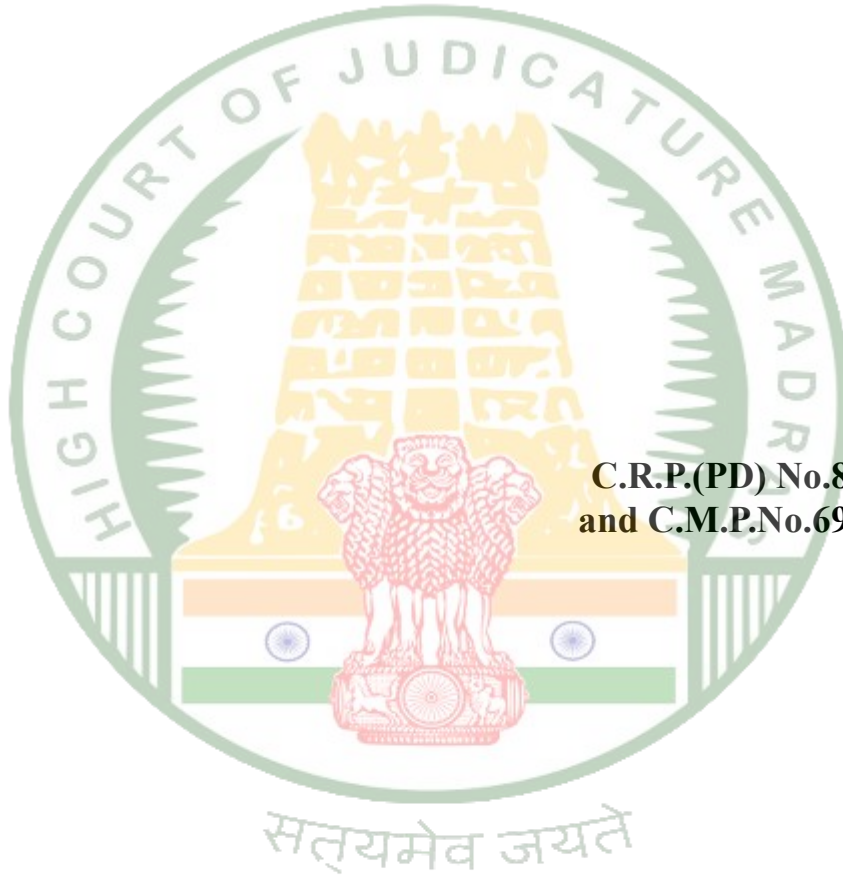
2.The Section Officer
VR Section
High Court of Madras.



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G.CHANDRASEKHARAN.J.

Pns



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